



AMERICAN SECURITY BANK

No. **0-193A026**
 Date **JUL 11 1980**
 Fee \$ **100.00**
 ICC Washington, D. C.

July 9, 1980

11991

RECORDATION NO. Filed 1425

Mrs. Agatha L. Mergenovich
 Secretary
 Interstate Commerce Commission
 12th and Constitution Ave., N.W.
 Washington, D.C. 20423

JUL 11 1980 - 1 10 AM

INTERSTATE COMMERCE COMMISSION

Attention: Mrs. Mildred R. Lee
 Recordation Section
 Room 2303

11991

RECORDATION NO. Filed 1425

JUL 11 1980 - 1 10 AM

INTERSTATE COMMERCE COMMISSION

Dear Mrs. Mergenovich:

Enclosed for recordation pursuant to 49 U.S.C. §11303 are the original and an executed counterpart of the following documents:

1. Lease Agreement, dated July 11, 1980, between the First National Bank and Trust Company of Evanston, as Owner Trustee (Lessor) and Western Fuels Association, Inc. (Lessee); and
2. Trust Indenture and Security Agreement, dated July 11, 1980, between the First National Bank and Trust Company of Evanston, as Owner Trustee, and Continental Illinois National Bank and Trust Company of Chicago, as Loan Trustee.

Pursuant to Section 1116.4(b) of the Commission's Rules, 49 C.F.R. §1116.4(b), listed below are the names and addresses of the parties to the transactions:

A. Lease

<u>Lessee</u>	(until July 31, 1980) Western Fuels Association, Inc. 1835 K. Street, N.W. Suite 412 Washington, D.C. 20006
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Sept. 5. Dig
Continued

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Mrs. Agatha L. Mergenovich
July 9, 1980
Page Two

(after July 31, 1980)
Western Fuels Association,
Inc.
700 Jefferson Building
1225 - 19th St., N.W.
Washington, D.C. 20036

Lessor First National Bank and
Trust Company of Evanston
800 Davis Street
Evanston, Illinois 60204

B. Trust Indenture and Security Agreement

Owner Trustee First National Bank and
Trust Company of Evanston
800 Davis Street
Evanston, Illinois 60204
ATTN: Corporate Trust Dept.

Loan Trustee Continental Illinois
National Bank and Trust
Company of Chicago
30 North LaSalle Street
Chicago, Illinois 60693
ATTN: Corporate Trust Dept.

Pursuant to Section 1116.4(c) of the Commission's
Rules, 49 C.F.R. §1116.4(c), listed below is the equipment
covered by these documents:

110 100-Ton Rapid Discharge Hopper Cars
and all alterations, modifications or
additions thereto or replacements or
parts thereof, identifying nos. WFAX
80400 through WFAX 80509, manufactured
by the Ortner Freight Car Company.

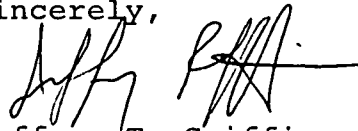
Enclosed are two checks each in the amount of
\$50.00 for the required recordation fees. Please return
to the bearer the executed counterparts of the original
documents bearing the stamped recordation number, the
date and hour of filing, and the other appropriate notations
pursuant to Section 1116.5 of the Commission's Rules,
49 C.F.R. §1116.5.

Mrs. Agatha L. Mergenovich
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The undersigned is a Vice President of American Security Bank, N.A., a party to the transactions contemplated by these agreements, and has knowledge of the matters set forth therein.

Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeffrey T. Griffin', with a stylized flourish at the end.

Jeffrey T. Griffin
Vice President
American Security Bank, N.A.

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JUL 11 1980 - 11 10 AM
INTERSTATE COMMERCE COMMISSION

Exhibit II
to
Participation Agreement

TRUST INDENTURE AND SECURITY AGREEMENT

Dated as of July 11, 1980

Between

FIRST NATIONAL BANK AND TRUST COMPANY OF EVANSTON,

as Owner Trustee

and

CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST
COMPANY OF CHICAGO,

as Loan Trustee

Brushy Creek Mine Unit-Train Financing

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Exhibit A -- Form of Original Issue Loan Certificate

TRUST INDENTURE AND SECURITY AGREEMENT

This Trust Indenture and Security Agreement, dated as of July 11, 1980, between FIRST NATIONAL BANK AND TRUST COMPANY OF EVANSTON, as trustee under the Owner Trust Agreement referred to below (the "Owner Trustee"), and CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO, as trustee hereunder (the "Loan Trustee");

RECITALS

A. The Owner Participant (the term "Owner Participant" and certain other terms used herein without definition having the respective meanings specified in Section 1 hereof) and the Owner Trustee have entered into an Owner Trust Agreement, dated as of the date hereof, whereby, among other things, (i) the Owner Trustee declares a certain trust for the use and benefit of the Owner Participant, subject, however, to the Trust Indenture Estate created pursuant hereto, for the use and benefit of, and with the priority of payment to, the holders of the Loan Certificates, (ii) provision is made for the payment by the Owner Trustee to the Owner Participant of amounts distributable hereunder to the Owner Participant and (iii) the Owner Trustee is authorized and directed to execute and deliver this Indenture.

B. The Owner Trustee desires by this Indenture, among other things, (i) to provide for the issue by the Owner Trustee to the Loan Participant of Original Issue Loan Certificates evidencing participation by such Loan Participant in the payment of a percentage of Lessor's Cost for the Cars acquired by the Owner Trustee, as provided in the Participation Agreement, and (ii) to provide for the deposit, mortgage and pledge by the Owner Trustee with the Loan Trustee, as part of the Trust Indenture Estate hereunder of, among other things, all of the Owner Trustee's right, title and interest in and to the Cars, the Lease, the Purchase Contract, the Purchase Contract Assignment, the Coal Delivery Contract, the Coal Delivery Contract Assignment, and all payments and other amounts received hereunder or thereunder in accordance with the terms hereof and to the extent provided hereby, in trust, as security for the Owner Trustee's obligations to the holders of the Loan Certificates, for the benefit and security of such holders.

C. All things necessary to make the Loan Certificates, when issued and delivered hereunder, the valid obligations of the Owner Trustee, and to make this Indenture the valid and legally binding obligation of the Owner Trustee, for the uses and purposes herein set forth, in accordance with its terms, have been done and performed and have happened.

NOW, THEREFORE, This Indenture Witnesseth, that, to secure the prompt payment of the principal of and interest on all the Loan Certificates from time to time outstanding hereunder and of all amounts of indemnity and other payments payable or to be distributed by the Owner Trustee or the Lessee to or for the benefit of the Loan Participant or the Loan Trustee, and to secure the performance and observance by the Owner Trustee of all the agreements, covenants and provisions herein and in the Loan Certificates contained, and by Lessee of its agreements and covenants in the Lease and the Participation Agreement contained, and for the uses and purposes and subject to the terms and provisions hereof, and in consideration of the premises and of the covenants herein contained and of the acceptance of the Loan Certificates by the holders thereof;

GRANTING CLAUSE

The Owner Trustee by these presents does grant, bargain, sell, release, convey, assign, transfer, mortgage, hypothecate, pledge, and confirm unto the Loan Trustee, its successors and assigns, and does create in favor of the Loan Trustee, its successors and assigns, a security interest in, the following described property, rights and privileges (all being included in the Trust Indenture Estate), to-wit:

(1) all the Cars defined by reference in Section 1.02 which the Owner Trustee now owns or may hereafter acquire;

(2) all the estate, right, title and interest, now held or hereafter acquired, of the Owner Trustee in, to and under the Lease, including, without limitation, all amounts of Rent, Supplemental Payments, Stipulated Loss Value payments, Termination Value payments, insurance proceeds (other than any insurance proceeds payable under liability policies to or for the benefit of a Participant, the Loan Trustee or the Owner Trustee, for its own account), requisition, indemnity and other payments of any kind for or with respect to the Cars, or any part thereof, all proceeds of any lease, disposition or sale of the Cars, or any part thereof, pursuant to the Lease, and all other amounts payable to the Owner Trustee pursuant to the Lease and including all rights of the Owner Trustee (except as otherwise provided in Section 5.07) to execute any election or option or to make any decision or determination or to give any notice, consent, waiver or approval under or in respect of the Lease or to accept any surrender of the Cars, or any part thereof, as well as all claims, rights, powers, privileges and remedies on the part of the Owner Trustee, whether arising under the Lease or by statute or at law or in equity, or otherwise, arising out of any failure by Lessee to perform or comply with any term or provision of the Lease or out of any Lease

Default or Lease Event of Default under the Lease, and all estate, right, title and interest of the Owner Trustee as secured party or lien holder thereunder to the extent a security interest or Lien may be deemed to be created by the Lease;

(3) all the estate, right, title and interest, now held or hereafter acquired, of the Owner Trustee in and to the Purchase Contract, the Purchase Contract Assignment, the Coal Delivery Contract, the Coal Delivery Contract Assignment and the Trust Agreement;

(4) all the tolls, rents, issues, profits, products, revenues and other income of the property subjected or required to be subjected to the Lien of this Indenture, and all the estate, right, title and interest of every nature whatsoever of the Owner Trustee in and to the same and every part thereof;

(5) all estate, right, title and interest now held or hereafter acquired by the Owner Trustee in any right to restitution from Lessee or others in respect of any determination of invalidity of any Unit-Train Financing Agreement; and

(6) all proceeds of the foregoing;

BUT EXCLUDING:

(x) all amounts of indemnity payable to the Owner Participant or to the Owner Trustee for the benefit of the Owner Participant by the Lessee under the Lease or the Participation Agreement and all rights of the Owner Trustee and the Owner Participant, respectively, to demand, collect, sue for, or otherwise obtain from the Lessee all amounts due on account of any such indemnities or payments;

(y) payments under the Coal Delivery Contract and the Coal Purchase Contracts to the extent such payments are designated for the purpose of satisfying the obligations of Lessee referred to in paragraph (x) of this Granting Clause or are attributable to the recomputation of Rent pursuant to Section 4.4(a) of the Lease and all rights (if any) of the Owner Trustee and the Owner Participant to demand, collect, sue for, or otherwise obtain all amounts due under the Coal Delivery Contract and the Coal Purchase Contracts on account of any such indemnities or payments; and

(z) all rights of the Owner Trustee and the Owner Participant to demand, collect, sue for, or otherwise obtain from the Lessee or others reimbursement for all amounts expended by the Owner Trustee or the Owner Participant, as the case may be, pursuant to Section 4.10(a), relating to certain cure rights;

Provided that the rights excepted and reserved by paragraphs (x), (y) and (z) of this Granting Clause shall not be deemed to include the right to terminate the Lease or to repossess the Cars and provided further that without the prior written consent of a Majority in Interest of Loan Certificate Holders (such consent not to be unreasonably withheld) neither the Owner Trustee nor the Owner Participant may commence suit to enforce rights excepted and reserved by paragraphs (x), (y) and (z) of this Granting Clause if there shall have occurred and be continuing an Indenture Default or Indenture Event of Default for which the right to sue is not herein excepted and reserved.

(Concurrently with the delivery hereof, the Owner Trustee is delivering to the Loan Trustee the executed original counterpart of the Lease, a copy of each of the Purchase Contract and the Coal Delivery Contract (each certified by Lessee) and an executed counterpart of each of the Purchase Contract Assignment and the Coal Delivery Contract Assignment).

ASSIGNMENT CLAUSE

Without limiting the generality of the foregoing Granting Clause, in order to more fully secure the payment, performance and observance by the Owner Trustee of its obligations herein and in the Loan Certificates contained, and except as otherwise provided in paragraphs (x), (y), and (z) of the Granting Clause, the Owner Trustee presently and irrevocably sells, assigns, transfers and sets over to the Loan Trustee, its successors and assigns, as part of the Trust Indenture Estate hereby created, all right, title and interest of the Owner Trustee in, to and under the Lease, including, without limitation, all amounts of Rent, Supplemental Payments, Stipulated Loss Value payments, Termination Value payments, insurance proceeds (other than any insurance proceeds payable under liability policies to or for the benefit of a Participant, the Loan Trustee or the Owner Trustee, for its own account) and requisition, indemnity and other payments of any kind for or with respect to the Cars, the Lease, the Trust Agreement, the Purchase Contract, the Purchase Contract Assignment, the Coal Delivery Contract or the Coal Delivery Contract Assignment or payable by the Lessee under the Lease or the Participation Agreement and all rights of the Owner Trustee (except as otherwise provided in Section 5.07) to exercise any

election or option or to make any decision or determination or to give any notice, consent, waiver or approval under or in respect of the Lease or the Trust Agreement or to accept any surrender of any Cars or any part thereof, as well as all rights, powers and remedies on the part of the Owner Trustee, whether arising under the Lease or the Trust Agreement or by statute or at law or in equity, or otherwise, arising out of any Lease Default or Lease Event of Default.

The Loan Trustee, its successors and assigns, shall hold all of its estate, right, title and interest under the foregoing Granting and Assignment Clauses as the Trust Indenture Estate hereunder, in trust for the benefit and security of the holders from time to time of the Loan Certificates, without any priority of any one Loan Certificate over any other, except as herein otherwise expressly provided, and for the uses and purposes and subject to the terms and provisions set forth in this Indenture; and the Owner Trustee hereby binds itself and its successors and assigns, not in its individual capacity but as trustee under the Owner Trust Agreement, to warrant and forever defend to the Loan Trustee and its successors and assigns all the properties included in the Trust Indenture Estate.

It is hereby covenanted and agreed by and between the parties hereto as follows:

Section 1. Definitions.

1.01 Certain Definitions. Unless the context otherwise requires, for all purposes of this Indenture the following terms shall have the following meanings (such definitions to be equally applicable to both the singular and plural forms of the terms defined):

"Collateral" shall mean all properties and rights subject to the security interest and Lien created hereby, including after-acquired property and proceeds.

"Fair Market Sales Value" shall have the meaning given in the Lease.

"Indenture" and each reference to "this Indenture," "the Indenture," "herein," "hereunder," "hereof," or other like words shall mean this Trust Indenture and Security Agreement as it may from time to time be supplemented or amended pursuant to the applicable provisions hereof.

"Indenture Event of Default" shall mean any event or condition described in Section 4.01(a), and "Indenture Default" shall mean any event or condition which after the giving of notice or lapse of time or both would become an Indenture Event of Default.

"Loan Certificate" shall mean and include each Original Issue Loan Certificate and each Subsequent Issue Loan Certificate, including all Loan Certificates issued in exchange therefor or replacement thereof pursuant to Section 2.07 or 2.08.

"Majority in Interest of Loan Certificate Holders" as of a particular date of determination shall mean the holders of more than 60% in aggregate unpaid principal amount of all Loan Certificates outstanding as of such date.

"Majority in Interest of Participants" as of a particular date of determination shall mean (i) a Majority in Interest of Loan Certificate Holders and (ii) the Owner Participant, provided that during any period after which the unpaid principal amount of all Loan Certificates then outstanding shall have been declared due and payable pursuant to Section 4.01(c), a "Majority in Interest of Participants" shall mean a Majority in Interest of Loan Certificate Holders.

"Original Issue Loan Certificate" shall mean a certificate, substantially in the form of Exhibit A hereto, issued by the Owner Trustee pursuant to Section 2.02 to the Loan Participant in the principal amount, bearing interest at the rates and payable as to principal and interest and Loan Fee as provided in Section 2.02 and secured as provided in the Granting and Assignment Clauses hereof, and shall include any certificate issued in exchange therefor or replacement thereof pursuant to Section 2.07 or 2.08.

"Participation Agreement" shall mean that certain Participation Agreement, dated as of the date hereof, among the Owner Trustee, the Loan Trustee, Lessee and the Participants, as the same may from time to time be supplemented or amended, or the terms thereof waived or modified, to the extent permitted by, and in accordance with, the terms thereof and of this Indenture.

"Prime Rate" shall mean on any day the rate of interest charged on that day by American Security Bank, N.A., at its principal office on short-term loans to its most substantial commercial borrowers.

"Subsequent Issue Loan Certificate" shall mean a certificate issued by the Owner Trustee pursuant to Section 11 to a Loan Participant in the principal amount, bearing interest at the rate and payable as to principal and interest as provided in Section 11.01 and secured as provided in the Granting and Assignment Clauses hereof, and shall include any certificate issued in exchange therefor or replacement thereof pursuant to Section 2.07 or 2.08.

"Trust Indenture Estate" shall mean all estate, right, title and interest of the Loan Trustee under the Granting and Assignment Clauses hereof, and any and all payments or proceeds received by the Loan Trustee after the termination of the Lease with respect to the Cars, or any part thereof, as a result of the sale, lease or other disposition thereof.

1.02 Terms Defined in Lease or Participation Agreement. For all purposes of this Indenture, all capitalized terms used herein, unless otherwise defined herein or the context otherwise requires, shall have the meanings set forth in the Lease or, if not defined in the Lease, in the Participation Agreement.

Section 2. The Loan Certificates.

2.01 Contents; Execution. All Loan Certificates outstanding hereunder at the same time shall be identical in respect of (a) the place or places of payment of the principal thereof and the premium, if any, and interest thereon, (b) the date of maturity, (c) the interest rate, and (d) the price or prices and terms for any prepayment. The aggregate principal amount of all Original Issue Loan Certificates which may be outstanding and secured hereunder at any one time shall be limited to \$4,700,000. The aggregate principal amount of all Subsequent Issue Loan Certificates which may be outstanding and secured hereunder at any one time shall be limited to that same sum, less the aggregate amount of payments of principal of the Original Issue Loan Certificates made prior to the prepayment of such Loan Certificates occurring as a result of the issuance of Subsequent Issue Loan Certificates (and excluding amounts so prepaid as a result of such issuance), plus the expenses referred to in clause (b)(i) of Section 16 of the Participation Agreement insofar as such expenses relate to the refinancing transactions contemplated by Section 18 of the Participation Agreement and Section 11 hereof.

Each Loan Certificate issued hereunder shall be executed on behalf of the Owner Trustee by a duly authorized officer thereof. Any Loan Certificate may be signed and sealed by a person who at the actual date of the execution of such Loan Certificate is an officer of the Owner Trustee, although at the nominal date of such Loan Certificate such person may not have been an officer of the Owner Trustee.

2.02 Issuance and Terms of Original Issue Loan Certificates. On the Delivery Date there shall be issued to the Loan Participant as provided in the Participation Agreement a single loan certificate in substantially the form of Exhibit A hereto, dated the Delivery Date and payable to the order of the Loan Participant or its nominee, in a stated aggregate principal

amount equal to the amount of the participation paid by the Loan Participant to the Loan Trustee pursuant to Section 3.1 of the Participation Agreement.

Interest on each Original Issue Loan Certificate shall be due and payable on each Interim Rent Payment Date, and the principal and interest on each Original Issue Loan Certificate shall be due and payable in 30 consecutive semi-annual installments of principal and interest commencing on the first Periodic Rent Payment Date and continuing on each Periodic Rent Payment Date thereafter to and including July 1, 1996, each such payment to be in an amount equal to accrued but unpaid interest and Loan Fee plus an amount of principal determined by multiplying (i) the Principal Factor specified in Schedule D to the Lease with respect to the applicable Periodic Rent Payment Date times (ii) the principal amount of the Loan Certificate as computed pursuant to footnote (1) to Schedule D of the Lease, provided that the last such payment shall in any event be in an amount sufficient to discharge the accrued interest on and the entire unpaid principal amount of, and other amounts payable with respect to, such Original Issue Loan Certificate.

Each Original Issue Loan Certificate shall bear interest on the principal amount thereof from time to time outstanding from the date thereof until payment thereof at a per annum rate equal to one percent plus the Prime Rate (changing on the fifth day of each month as the Prime Rate changes) until July 1, 1985, and commencing on that date and continuing thereafter until such Loan Certificate is fully paid at a per annum rate equal to three percent plus the Prime Rate (changing on the fifth day of each month as the Prime Rate changes). Such interest shall be computed on the basis of a 360-day year of twelve 30-day months. Each Original Issue Loan Certificate shall bear interest at a per annum rate equal to one percent plus the rate otherwise applicable (or, if less, the maximum permitted by applicable law) on any portion of principal or, to the extent permitted by applicable law, interest and Loan Fee, not paid when due for any period during which the same shall be overdue. In addition, each Original Issue Loan Certificate shall provide for payment of Loan Fee payable annually commencing July 1, 1985 and continuing on each July 1 thereafter to and including July 1, 1994, the amount of Loan Fee payable on each such July 1 to each holder of an Original Issue Loan Certificate to be that proportion of the aggregate Loan Fee payable on such July 1 which the unpaid principal amount of Original Issue Loan Certificates held by such holder bears to the aggregate principal amount of all Original Issue Loan Certificates then outstanding.

Upon not less than ten Business Days' written notice to the Loan Trustee and the holders of all Original Issue Loan Certificates then outstanding, the Owner Trustee may at its option

redeem and prepay in full all such Loan Certificates on the date specified in such notice, which date shall be a Business Day. Each holder of an Original Issue Loan Certificate, by accepting such Loan Certificate, agrees to surrender to the Owner Trustee all Loan Certificates then held by such holder upon payment to it in immediately available funds of an amount equal to the sum of

(x) the aggregate unpaid principal amount of all Loan Certificates then held by such holder, together with accrued interest and Loan Fee thereon to the date of prepayment, plus

(y) the aggregate amount, if any, of all sums then due and payable to such holder (or any predecessor in interest thereof) hereunder, or under the Lease, the Participation Agreement or the Original Issue Loan Certificates.

All Original Issue Loan Certificates thus surrendered to the Owner Trustee shall be cancelled.

2.03 Payments from Trust Indenture Estate Only. All payments to be made by the Loan Trustee under the Loan Certificates and under this Indenture (except for the obligations of the Loan Trustee expressly undertaken in Section 6.01 hereof) shall be made only from the Trust Indenture Estate and only to the extent that the Loan Trustee shall have sufficient income or proceeds from the Trust Indenture Estate to make such payments in accordance with the terms of Section 3 hereof. Each holder of a Loan Certificate, by its acceptance of such Loan Certificate, agrees that (i) except as expressly provided in this Indenture, the Participation Agreement or the Owner Trust Agreement, insofar as the Loan Trustee is concerned such holder (in its capacity as such) will look solely to the Trust Indenture Estate to the extent available for distribution to such holder as herein provided, and insofar as the Owner Trustee is concerned such holder will look solely to the Owner Trust Estate, and (ii) neither the Owner Participant, the Owner Trustee nor the Loan Trustee is personally liable to the holder of any Loan Certificate (in its capacity as such) for any amounts of principal of or interest on the Loan Certificates, or, except as expressly provided in this Indenture, the Participation Agreement or the Owner Trust Agreement, for any amounts payable under this Indenture or the Participation Agreement.

2.04 Method of Payment. The principal of and interest and Loan Fee on each Loan Certificate will be payable at the Loan Trustee Office and will be paid by the Loan Trustee by crediting the amount to be distributed to any holder of a Loan Certificate to an account maintained by such holder with the Loan Trustee or, if such an account is not maintained, by whichever of the following methods shall be specified by notice from such holder

to the Loan Trustee: (a) by making such payment to such holder in immediately available funds at the Loan Trustee Office, (b) by transferring such amount in immediately available funds to a banking institution designated in such notice with bank wire transfer facilities for the account of such holder, or (c) by mailing a check for such amount to such holder at its address specified in Schedule 1 to the Participation Agreement (in the case of the Participants which are parties to the Participation Agreement), or at such address as such holder shall designate by notice to the Loan Trustee, in all cases except for the final payment without any presentment or surrender of any Loan Certificate. So long as any signatory to the Participation Agreement shall be the registered holder of a Loan Certificate or the holder of record of an order Loan Certificate, all payments to it shall be made in the manner provided in the Participation Agreement unless it shall have specified some other manner of payment by notice to the Loan Trustee in accordance with the first sentence of this Section 2.04. The Loan Trustee may deem and treat the person in whose name any Loan Certificate shall be registered as provided in Section 2.07 as the absolute owner and holder of such Loan Certificate for the purpose of receiving payment of all amounts payable by the Loan Trustee with respect to such Loan Certificate and for all other purposes, and the Loan Trustee shall not be affected by any notice to the contrary. Until the Owner Trustee and the Loan Trustee have received written notice of transfer of any order Loan Certificate from the holder of record thereof, or until such order Loan Certificate, duly endorsed, shall have been presented to the Loan Trustee at the Loan Trustee Office by the transferee of such order Loan Certificate, the Owner Trustee, the Lessee, and the Loan Trustee may treat the person in whose name such order Loan Certificate is issued (or the last transferee of such Loan Certificate notice of whom has been given to the Owner Trustee and the Loan Trustee in accordance with this sentence, as the case may be) as the owner thereof for the purpose of receiving payment of all amounts payable with respect to such Loan Certificate and for all other purposes. All amounts payable with respect to any order Loan Certificate not held by an institutional holder of record shall be payable only upon presentment of such Loan Certificate to the Loan Trustee at the Loan Trustee Office.

2.05 Application of Payments to Principal and Interest.

In the case of each Loan Certificate, each payment of principal and interest and any other payments made thereunder (other than as hereinafter provided in this Section 2.05 or in such Loan Certificate) shall be applied, first, to the payment of accrued interest and Loan Fee on such Loan Certificate to the date of such payment, second, to the payment of the principal amount of such Loan Certificate then due thereunder and third, the balance, if any, remaining thereafter, to the payment of the principal amount of such Loan Certificate remaining unpaid. The Loan

Certificates are subject to prepayment (other than through application of the semi-annual installments on the Loan Certificates) from time to time in whole or in part only as provided in Sections 2.02, 3.02, and 3.03 of this Indenture. In the event of the partial prepayment of Loan Certificates pursuant to Section 3.02, each payment of principal and interest thereafter payable on the Loan Certificates shall be reduced in the same proportion as the then outstanding principal amount of the Loan Certificates shall have been reduced by such prepayment pursuant to Section 3.02.

2.06 Termination of Interest in Trust Indenture Estate. A holder of a Loan Certificate (in its capacity as such) shall have no further interest in, or other right with respect to, the Trust Indenture Estate when and if the principal of and interest and Loan Fee on all Loan Certificates held by such holder and all other sums payable to such holder hereunder, under the Participation Agreement, under the Lease and under such Loan Certificate shall have been paid in full.

2.07 Transfer of Loan Certificates. The Owner Trustee shall maintain at the Loan Trustee Office a register for the purpose of registering transfers and exchanges of registered Loan Certificates, and for the purpose of recording information as to the record holders of order Loan Certificates. A holder of a Loan Certificate intending to transfer any or all of the Loan Certificates held by such holder to a new payee, or to exchange any or all of the Loan Certificates held by it for Loan Certificates of different denominations, shall surrender such Loan Certificate or Loan Certificates to the Loan Trustee Office, together with a written request from the registered holder (in the case of a registered Loan Certificate) or from the payee named therein or its transferee by due endorsement and delivery (in the case of an order Loan Certificate) for the issuance of one or more new Loan Certificates, specifying the denomination or denominations of the same (which shall be \$50,000 or multiples thereof, plus one Loan Certificate in a smaller denomination, if requested) and, in the case of a surrender for registration of transfer (in the case of a registered Loan Certificate) or the issuance of Loan Certificates with a new named payee or payees (in the case of order Loan Certificates), the name and address of the payee or payees. Promptly upon receipt of such documents the Owner Trustee will issue a new Loan Certificate or Loan Certificates in the same form, in the same aggregate original principal amount and dated the same date or dates as the Loan Certificate or Loan Certificates surrendered, and in such denomination or denominations and payable to the order of such payee or payees as shall be specified in the written request from such holder. Each such new Loan Certificate shall be in registered form if the surrendered Loan Certificate is in registered form, or in order form if the surrendered Loan Certificate is in order form, unless

such request for transfer shall specify otherwise. Each registered Loan Certificate presented or surrendered for issue and registration of a new Loan Certificate or Loan Certificates shall be duly endorsed, or shall be accompanied by a written instrument of transfer duly executed by, the registered holder of such Loan Certificate or its attorney duly authorized in writing. Each order Loan Certificate presented or surrendered for transfer or exchange shall be duly endorsed by the payee named thereon and by each subsequent holder thereof named thereon or notice of whom has been given to the Loan Trustee. All Loan Certificates issued upon any registration of transfer or exchange of Loan Certificates shall be the valid obligations of the Owner Trustee evidencing the same respective obligations, and entitled to the same security and benefits under this Indenture, as the Loan Certificates surrendered upon such registration of transfer or exchange. The Loan Trustee shall make a notation on each new Loan Certificate of the amount of all payments or prepayments of principal previously made on the old Loan Certificate or Loan Certificates with respect to which such new Loan Certificate is issued and the date to which interest on such old Loan Certificate or Loan Certificates has been paid. If more than one Loan Certificate is issued in exchange for an old Loan Certificate or Loan Certificates, the principal previously paid on account of such old Loan Certificate or Loan Certificates shall be allocated pro rata among such new Loan Certificates. The Owner Trustee shall not be required to register the transfer of or exchange any surrendered Loan Certificates as above provided during the five-day period preceding the due date of any payment on such Loan Certificate.

2.08 Mutilated, Destroyed, Lost or Stolen Loan Certificates. If any Loan Certificate shall become mutilated, destroyed, lost or stolen, the Owner Trustee shall, upon the written request of the registered holder of a registered Loan Certificate, or the last holder of record of an order Loan Certificate, execute and deliver in replacement thereof a new Loan Certificate, payable in the same original principal amount and dated the same date as the Loan Certificate so mutilated, destroyed, lost or stolen. If the Loan Certificate being replaced has become mutilated, such Loan Certificate shall be surrendered to the Loan Trustee and forwarded to the Owner Trustee by the Loan Trustee. If the Loan Certificate being replaced has been destroyed, lost or stolen, the registered holder of a registered Loan Certificate, or the last holder of record of an order Loan Certificate, shall furnish to the Owner Trustee and the Loan Trustee such security or indemnity as may be required by them to save the Owner Trustee and the Loan Trustee harmless and evidence satisfactory to the Owner Trustee and the Loan Trustee of the destruction, loss or theft of such Loan Certificate and of the ownership thereof, provided that if the holder of such Loan Certificate is one of the signatories to the Participation Agreement or another institutional investor or its nominee, the written undertaking of

such holder delivered to the Owner Trustee and the Loan Trustee shall be sufficient security and indemnity. The Loan Trustee shall make a notation on each new Loan Certificate of the amount of all payments or prepayments of principal previously made on the old Loan Certificate or Loan Certificates with respect to which such new Loan Certificate is issued and the date to which interest on such old Loan Certificate or Loan Certificates has been paid.

2.09 Payment of Expenses on Transfer. Upon the issuance of a new Loan Certificate or Loan Certificates pursuant to Section 2.07 or 2.08, the Owner Trustee may require from the party requesting such new Loan Certificate or Loan Certificates payment of a sum to reimburse the Owner Trustee and the Loan Trustee for, or to provide funds for, the payment of any tax or other governmental charge in connection therewith or any charges and expenses connected with such tax or other governmental charge paid or payable by the Owner Trustee or the Loan Trustee.

2.10 Owner Participant's Option to Purchase Loan Certificates. Each holder of a Loan Certificate, by accepting such Loan Certificate, agrees that if

(a) the Loan Trustee or a Majority in Interest of Loan Certificate Holders shall have declared the outstanding principal of the Loan Certificates to be due and payable immediately pursuant to Section 4.01(c), and

(b) the Owner Trustee or any or all of the Owner Participants, within the earlier of (i) the date 45 Business Days after receipt by the Owner Trustee of notice given pursuant to Section 4.01(c) or (ii) ten Business Days after expiration of the cure rights provided in Section 22.6(a) of the Lease, shall have given to the Loan Trustee and the holders of all Loan Certificates at the time outstanding its or their written undertaking to purchase all such Loan Certificates in accordance with this Section 2.10,

then, upon receipt within five Business Days after such undertaking from the Owner Trustee or the Owner Participants, as the case may be, of an amount equal to the sum of

(x) the aggregate unpaid principal amount of all Loan Certificates then held by such holder, together with accrued interest and Loan Fee thereon to date of such receipt, plus

(y) the aggregate amount, if any, of all sums then due and payable to such holder (or any predecessor in interest thereof) hereunder, or under the Lease, the Participation Agreement or the Loan Certificates,

such holder will forthwith sell, assign, transfer and convey to the Owner Participant (without recourse or warranty of any kind

other than of title to the Loan Certificates so conveyed) all of the right, title and interest of such holder in and to the Trust Indenture Estate, this Indenture, all Loan Certificates held by such holder, the Participation Agreement and the Trust Agreement (in its capacity as the holder of a Loan Certificate but not in its capacity as the holder of any other obligation) and the Owner Participant shall thereupon assume all of such holder's rights and obligations under such documents, provided that no such holder of a Loan Certificate shall be required to sell, assign, transfer or convey the Loan Certificates held by it unless (1) all the Loan Certificates at the time outstanding are purchased by the Owner Participant pursuant to this Section 2.10, and (2) such sale, assignment, transfer and conveyance is not in violation of any applicable law or governmental regulation. All charges and expenses required to be paid pursuant to Section 2.09 in connection with the issuance of any new Loan Certificates shall be borne by the Owner Participant.

2.11 Acquisition of Loan Certificates. Except in the case of the purchase of all of the Loan Certificates then outstanding in accordance with Section 2.10, no Loan Certificates may be acquired in any manner by the Owner Participant, and except in the case of the prepayment of the Loan Certificates in whole or in part pursuant to Section 2.02, 3.02 or 3.03, no Loan Certificates may be redeemed or prepaid or acquired in any manner by the Owner Trustee.

2.12 Notices of Certain Prepayments. The Loan Trustee shall give prompt notice of any prepayment of the Loan Certificates under Section 3.02 to each holder of the Loan Certificates then outstanding as soon as the Loan Trustee shall have knowledge that such prepayment is to occur, which notice shall specify the principal amount of the Loan Certificates held by such holder so to be prepaid, if any, and the date on which such prepayment is to occur. Such notice shall be accompanied by, or shall be promptly followed by, a revised amortization schedule for such Loan Certificates, taking into account the effect of such prepayment.

2.13 Equally and Ratably Secured. All Loan Certificates at any time outstanding under this Indenture shall be equally and ratably secured hereby, without preference, priority or distinction on account of the date or dates or the actual time or times of the issue or maturity of such Loan Certificates, so that all Loan Certificates at any time issued and outstanding hereunder shall have the same right, Lien and preference under and by virtue of this Indenture.

Section 3. Receipt, Distribution and Application of Income from the Trust Indenture Estate.

3.01 Rent Distribution; Application of Other Payments Under Deficiency in Rent.

(a) Rent Distribution. Except as otherwise provided in Sections 3.01(c), 3.03, and the first paragraph of 3.07, each payment of Rent as well as any payment of interest on overdue payments of Rent received by the Loan Trustee at any time shall be distributed by the Loan Trustee on the date such payment is due from Lessee (or as soon thereafter as such payment shall be received by the Loan Trustee) in the following order of priority:

First, so much of such payment as shall be required to pay in full the aggregate amount of the payment or payments of principal and interest and Loan Fee (as well as any interest on overdue principal and, to the extent permitted by applicable law, overdue interest and Loan Fee) then due under all Loan Certificates then outstanding shall be distributed to the holders of such Loan Certificates ratably, without priority of one over the other, in the proportion that the amount of such payment or payments then due under each such Loan Certificate bears to the aggregate amount of the payments then due under all such Loan Certificates;

Second, the balance, if any, of such payment remaining thereafter shall be distributed to the Owner Participant.

The portion of each such payment distributed to a holder of a Loan Certificate shall be applied by such holder in payment of such Loan Certificate in accordance with the terms of Section 2.05.

(b) Application of Payments Upon Default. If, as a result of any failure by Lessee to pay in full on any date (or within any applicable period of grace) when an installment of Rent is due or for any other reason, there shall not have been distributed on any Rent Payment Date (or within any applicable period of grace) the full amount then distributable pursuant to clause "First" of Section 3.01(a), the Loan Trustee shall, if so requested by a Majority in Interest of Loan Certificate Holders, distribute any other payments

of the character referred to in Section 3.05 then held by it or thereafter received by it (including any amounts from time to time held by it under Section 3.01(c), except as otherwise provided in Section 3.03, to the holders of all Loan Certificates to the extent necessary to enable it to make all the distributions then due pursuant to such clause "First."

(c) Retention of Amounts by Loan Trustee.

If at the time of receipt by the Loan Trustee of an installment of Rent (whether or not then overdue) or of payment of interest on any overdue installment of Rent, there shall have occurred and be continuing an Indenture Default or an Indenture Event of Default, the Loan Trustee shall retain such payment of Rent or of interest (to the extent not then required to be distributed pursuant to clause "First" of Section 3.01(a)) in the same manner as set forth in Section 3.05, and shall not distribute any such payment of Rent or interest pursuant to clause "Second" of Section 3.01(a) until such time as there shall not be continuing any Indenture Default or an Indenture Event of Default, provided that if any such amount has been retained by the Loan Trustee for more than the greater of (x) 120 days and (y) 30 days after the next following due date for the payment of any installment of Rent, no declaration of default or acceleration contemplated by Section 3.03 has occurred, and all outstanding Indenture Defaults and Indenture Events of Default shall have existed and been continuing for at least the greater of (i) 120 days and (ii) 30 days after the next following due date for the payment of any installment of Rent, then such amount shall be distributed by the Loan Trustee pursuant to clause "Second" of Section 3.01(a).

3.02 Payments for Obsolete, Lost or Transferred Cars.

(a) Payments under Sections 16.1 and 18 of the Lease. Except as otherwise provided in Section 3.03, any payment received by the Loan Trustee as a result of the sale of the Cars pursuant to Section 18 of the Lease as well as any payment received by the Loan Trustee from the Lessee on account of the Termination Value of the Cars pursuant to said Section 18, and any payment received by the Loan Trustee from the Lessee pursuant to Section 16.1 of the Lease on account of the Stipulated Loss Value or Fair Market Sales Value of a Car as a result of the occurrence of a Casualty Occurrence with respect to such Car, shall in each case be distributed forthwith upon receipt by the Loan Trustee in the following order of priority:

First, so much of such payment as shall be required to reimburse Loan Trustee for any expenses not reimbursed by Lessee in connection with the collection or distribution of such payment shall be distributed to the Loan Trustee for application to itself;

Second, (i) in the case of a payment pursuant to Section 16.1 of the Lease, so much of such payment as shall be required to pay the amount determined in accordance with the second sentence of the definition of Stipulated Loss Value plus accrued but unpaid interest with respect thereto (if any), and (ii) in the case of a payment pursuant to Section 18 of the Lease, so much of such payment as shall be required to pay in full the outstanding principal amount of and all accrued but unpaid interest and Loan Fee on the Loan Certificates, shall be distributed to the holders of the Loan Certificates, ratably, without priority of one over the other, in the proportion that the aggregate principal and accrued but unpaid interest and Loan Fee payable to each such holder of Loan Certificates bears to the aggregate principal and accrued but unpaid interest and Loan Fee payable to all holders of Loan Certificates; and

Third, the balance, if any, of such payment shall be distributed to the Owner Participant.

(b) Payments under Section 16.2 or 15 of the Lease. Except as otherwise provided in Section 3.03, any payment received directly or through Lessee from any governmental authority or other party pursuant to Section 16.2 of the Lease with respect to any Car as the result of a Casualty Occurrence, to the extent that such payment is not at the time required to be paid to Lessee pursuant to said Section 16.2, and any payment of insurance proceeds received directly or through Lessee from any insurer pursuant to Section 15 of the Lease as the result of a Casualty Occurrence, to the extent such payment is not at the time required to be paid to Lessee pursuant to Section 15.4, shall, except as otherwise provided below in this Section 3.02(b), be distributed forthwith upon receipt by the Loan Trustee in the order of priority set forth in Section 3.02(a). Any portion of any payment referred to in the preceding sentence which is not required to be paid to Lessee

solely because a Lease Default or a Lease Event of Default shall have occurred and be continuing, shall be held by the Loan Trustee as security for the obligations of Lessee under the Lease and the Participation Agreement and at such time as there shall not be continuing any Lease Default or Lease Event of Default such portion shall be paid to Lessee, unless the Loan Trustee (as assignee from the Owner Trustee of the Lease) shall have theretofore declared the Lease to be in default pursuant to Section 22 thereof, in which event such portion shall be distributed forthwith upon such declaration in the order of priority set forth in Section 3.03, excluding clause "Second" thereof.

(c) Application of Payments. The portion of each payment referred to in Section 3.02(a) or 3.02(b) (other than payments pursuant to Section 6 of the Participation Agreement or pursuant to any indemnification provisions of any of the other agreements referred to therein) distributed to a holder of a Loan Certificate shall be applied by such holder in payment of such Loan Certificate in accordance with the terms of Section 2.05.

3.03 Payments After Indenture Default. Except as provided in the first paragraph of Section 3.07, all payments received and all amounts held or realized by the Loan Trustee after an Indenture Event of Default shall have occurred and be continuing (including any amounts realized by the Loan Trustee from the exercise of any remedies pursuant to Section 22 of the Lease or Section 4 hereof or received by the Loan Trustee from the Trustee under the Trust Agreement), and after either (i) the Loan Trustee has declared (as assignee from the Owner Trustee of the Lease) the Lease to be in default pursuant to Section 22 thereof or (ii) the Loan Trustee or a Majority in Interest of Loan Certificate Holders shall have declared the outstanding principal of the Loan Certificates to be due and payable immediately pursuant to Section 4.01(c), shall, so long as such declaration shall not have been rescinded be distributed forthwith by the Loan Trustee in the following order of priority:

First, so much of such payments or amounts as shall be required to reimburse the Loan Trustee for any unpaid fees for its services under this Indenture and any tax, expense (including reasonable attorneys' fees) or other loss incurred by it (to the extent incurred in connection with its duties as Loan Trustee and to the extent reimbursable and not previously reimbursed) shall be distributed to the Loan Trustee for application to itself;

Second, so much of such payments or amounts remaining as shall be required to reimburse the holders of Loan Certificates for amounts paid by the then existing or prior holders of Loan Certificates pursuant to any indemnity furnished the Loan Trustee pursuant to Section 12.2 of the Participation Agreement (plus, if the Owner Participant shall not for any reason have participated in such payments to the extent specified in Section 12.2 of the Participation Agreement, interest on the amounts so paid at the rate set forth in Section 12.2 of the Participation Agreement, but in no event greater than the maximum interest rate permitted by applicable law) shall be distributed to the then existing holders of the Loan Certificates ratably, without priority of one over the other, in the proportion that the amount of each such payment by each such then existing holder of Loan Certificates (or made by the predecessor holder or holders thereof), bears to the aggregate amount of all such payments by then existing or prior holders of Loan Certificates;

Third, so much of such payments or amounts remaining as shall be required to pay the then existing or prior holders of the Loan Certificates the amounts payable to them pursuant to the provisions of Section 6.1 or 6.2 of the Participation Agreement, or pursuant to any indemnification provisions of any of the other agreements referred to therein, shall be distributed to the then existing holders of Loan Certificates entitled (directly or through the predecessor holder or holders thereof) to indemnity or other payment under said provisions (to the extent not theretofore paid to such holder of a Loan Certificate or the predecessor holders thereof) ratably, without priority of one such holder over the other, in the proportion that the amount of such indemnity or other payments to which each such holder is entitled bears to the aggregate amount of such indemnity or other payments;

Fourth, so much of such payments or amounts remaining as shall be required to pay in full the aggregate unpaid principal amount

of all Loan Certificates then outstanding, and the accrued but unpaid interest and Loan Fee thereon to the date of distribution (including interest on overdue principal or, to the extent permitted by applicable law, overdue interest and Loan Fee), shall be distributed to the holders of such Loan Certificates ratably, without priority of one over the other, in the proportion that the aggregate unpaid principal amount of all such Loan Certificates held by each such holder and such accrued but unpaid interest and Loan Fee thereon bears to the aggregate unpaid principal amount of all Loan Certificates held by all such holders and such accrued but unpaid interest and Loan Fee thereon;

Fifth, so much of such payments or amounts remaining as shall be required to reimburse the Owner Trustee for any unpaid fees for its services under the Owner Trust Agreement and any tax, expense (including reasonable attorneys' fees) or other loss incurred by it (to the extent incurred in connection with its duties as Owner Trustee and to the extent reimbursable and not previously reimbursed) shall be distributed to the Owner Trustee for application to itself; and

Sixth, the balance, if any, of such payments or amounts remaining thereafter shall be distributed to the Owner Participant.

The portion of each such payment or amount distributed to each holder of a Loan Certificate pursuant to clause "Fourth" of this Section 3.03 shall be applied by such holder ratably in payment of the Loan Certificates held by it in accordance with the terms of Section 2.05.

3.04 Investment of Certain Payments Held by the Loan Trustee. Any payments held by the Loan Trustee pursuant to Section 3.01(c), 3.02(b), 3.05, or 3.06 shall be invested by the Loan Trustee from time to time in obligations of, or guaranteed as to interest and principal by, the United States Government or, unless otherwise instructed by a Majority in Interest of Loan Certificate Holders, in certificates of deposit issued by the Loan Trustee bearing interest at the maximum rate then allowed by the Loan Trustee on the amount so invested, in each case maturing in not more than 90 days, whichever shall yield the greater return. Any income realized as a result of such investment shall

be held and applied by the Loan Trustee in the same manner as the payments held by the Loan Trustee pursuant to Section 3.01(c), 3.02(b), 3.05, or 3.06, as the case may be. The Loan Trustee is authorized to liquidate any such investment so made by it, as it in its sole discretion shall determine to be appropriate, to the extent required to make any payment required to be made by the Loan Trustee hereunder.

3.05 Application of Certain Other Payments. Except as otherwise provided in Sections 3.01 and 3.03, any payment received by the Loan Trustee for which provision as to the application thereof is made in the Lease or in the Participation Agreement but not elsewhere in this Indenture, including, without limitation, amounts otherwise payable to the Owner Participant or the Owner Trustee under Section 6 of the Participation Agreement, shall be applied forthwith to the purpose for which such payment was made in accordance with the terms of the Lease or the Participation Agreement, as the case may be.

3.06 Other Payments. Except as otherwise provided in Sections 3.03 and 3.05:

(a) any payments received by the Loan Trustee for which no provision as to the application thereof is made in the Participation Agreement, the Lease, elsewhere in this Section 3, or in Section 10 shall be held by the Loan Trustee as part of the Trust Indenture Estate; and

(b) all payments received and amounts realized by the Loan Trustee under the Lease or otherwise with respect to the Cars (including, without limitation, all amounts realized upon the sale or release of the Cars, or any part thereof, after the termination of the Lease with respect thereto), to the extent received or realized at any time after payment in full of the principal of and interest and Loan Fee on all Loan Certificates and all other amounts due the holders of Loan Certificates hereunder, as well as any other amounts remaining as part of the Trust Indenture Estate after payment in full of the principal of and interest and Loan Fee on all Loan Certificates and all other amounts due the holders of Loan Certificates hereunder, shall be distributed forthwith by the Loan Trustee in the order of priority set forth in Section 3.03, omitting clause "Fourth" thereof.

3.07 Distribution to Owner Participant. All indemnification payments and other amounts payable to the Owner Participant or to the Owner Trustee for the benefit of the Owner Participant pursuant to Section 6 of the Participation Agreement

or pursuant to any indemnification provisions of any of the other agreements referred to therein and, if the Rent shall have been recomputed pursuant to Section 4.4(a) of the Lease, that portion of each payment of Rent attributable to such recomputation, shall be forthwith distributed upon receipt thereof by the Loan Trustee to the Owner Participant or the Owner Trustee, as the case may be.

Unless otherwise directed in writing by the Owner Trustee or the Owner Participant, all amounts from time to time distributable by the Loan Trustee to the Owner Participant in accordance with the provisions hereof shall be paid by the Loan Trustee to the Owner Participant in immediately available funds in the manner specified in Schedule 1 to the Participation Agreement. If the Loan Trustee is instructed to make any payments distributable to the Owner Participant to the Owner Trustee, the Loan Trustee shall not be obligated to see to the application of any payment by the Owner Trustee.

Section 4. Remedies of the Loan Trustee.

4.01 Occurrence of Indenture Event of Default; Acceleration.

(a) Indenture Event of Defaults. Any of the following events or conditions shall constitute an Indenture Event of Default:

(i) any Lease Event of Default; or

(ii) any failure of payment of principal, interest or Loan Fee on any Loan Certificate when the same shall become due and payable or in the payment, within five days after the same shall have become due and payable, of any other indebtedness payable to any holder of a Loan Certificate pursuant to this Indenture, resulting, in either case, from a failure by the Owner Participant or the Owner Trustee to perform or observe any covenant, condition or agreement to be performed or observed by it hereunder or under the Lease, the Participation Agreement, or the Owner Trust Agreement, but only if such failure shall continue unremedied for a period of five days after the Owner Participant or the Owner Trustee shall have received notice thereof from any holder of a Loan Certificate, the Loan Trustee or Lessee or if the Owner Participant or the Owner Trustee, as the case may be, shall not (after either

receipt of such notice or earlier acquisition of actual knowledge of such failure) seek diligently to remedy such failure; or

(iii) any failure by the Owner Participant or the Owner Trustee to perform or observe any covenant, condition or agreement to be performed or observed by it hereunder or under the Loan Certificates, the Lease, the Participation Agreement or the Owner Trust Agreement (other than a failure referred to in clause (ii) above) if such failure shall continue unremedied for a period of 30 days after the Owner Trustee or the Owner Participant received notice thereof from any holder of a Loan Certificate, the Loan Trustee or Lessee or if the Owner Participant or the Owner Trustee, as the case may be, shall not (after either receipt of such notice or earlier acquisition of actual knowledge of such failure) seek diligently to remedy such failure; or

(iv) any representation or warranty made by the Owner Participant or the Owner Trustee hereunder or under the Lease, the Participation Agreement or the Owner Trust Agreement, or by any officer or representative of the Owner Participant or the Owner Trustee in any document or certificate furnished to the Loan Trustee or any Loan Participant in connection herewith or therewith or pursuant hereto or thereto, shall prove at any time to have been incorrect in any material respect as of the date made and, if the adverse impact of such representation or warranty be curable to the reasonable satisfaction of a Majority in Interest of Loan Certificate Holders, shall not have been so cured within 30 days after the Person making such representation or warranty shall have received notice that the same shall have been incorrect from any holder of a Loan Certificate, the Loan Trustee or Lessee.

(b) Lease Event of Default. After a Lease Event of Default shall have occurred and be continuing and after the Lease shall have been declared in default pursuant to Section 22 thereof, then and in every such case the Loan Trustee, as assignee hereunder of the Lease or as mortgagee hereunder or otherwise, may, and

when required pursuant to the provisions of Section 5 hereof shall, exercise any or all of the rights and powers and pursue any or all of the remedies pursuant to Section 22 of the Lease and this Section 4 and may take possession of all or any part of the Collateral covered or intended to be covered by the lien and security interest created hereby or pursuant hereto and may exclude the Owner Trustee and the Lessee and all persons claiming under either of them wholly or partly therefrom, provided that the Loan Trustee shall not declare the Lease in default prior to the expiration of the cure rights referred to in Section 4.10(b) or any five-day cure period referred to in the first sentence of Section 4.10(a).

(c) Occurrence of Indenture Event of Default. If an Indenture Event of Default whether or not constituting a Lease Event of Default shall have occurred and be continuing, the Loan Trustee or a Majority in Interest of Loan Certificate Holders may declare the unpaid principal amount of all the Loan Certificates then outstanding to be due and payable immediately by giving written notice to the Owner Trustee (and if such notice be given by the holders of Loan Certificates, to the Loan Trustee) and upon any such declaration of acceleration such principal and accrued interest and Loan Fee thereon shall become due and payable immediately without further act or notice of any kind, provided that no such declaration of acceleration shall be made prior to the expiration of the cure rights referred to in Section 4.10(b) or any five-day cure period referred to in the first sentence of Section 4.10(a). Upon such declaration, the Loan Trustee, as assignee hereunder of the Lease or as mortgagee and secured party hereunder, or otherwise, may, and when required pursuant to Section 5 shall, exercise any or all of the rights and powers and pursue any or all of the remedies permitted by this Section 4, and may take possession of all or any part of the Collateral and may exclude the Owner Trustee and all persons claiming under or through the Owner Trustee wholly or partly therefrom, provided that the mortgage, security interests and assignments shall not be foreclosed or otherwise enforced in a manner which would violate or interfere with the rights of Lessee as provided in Section 4.13.

4.02 Remedies. The Owner Trustee agrees, to the full extent that it lawfully may, that, if an Indenture Event of Default shall have occurred and be continuing, and either the Lease shall have been declared in default pursuant to Section 22

thereof or the unpaid principal amount of all Loan Certificates then outstanding shall have been declared due and payable pursuant to Section 4.01(c) hereof, then, and in every such case, the Loan Trustee, as assignee hereunder of the Lease, or as mortgagee and secured party hereunder, or otherwise, may (a) exercise any or all of the rights and powers and pursue any and all of the remedies available to it hereunder or (if the Lease shall have been declared in default) under the Lease or available to a mortgagee or a secured party under the Uniform Commercial Code or any other provision of law, (b) take possession of, without further notice, all or any part of the Collateral without judicial process, by summary proceedings or otherwise (all to the extent permitted by law), and (c) sell, lease or otherwise dispose of the Cars or any thereof in any manner, method, time and place and on any terms as the Loan Trustee may choose, provided that every aspect of the disposition is commercially reasonable. All actions taken by the Loan Trustee under Sections 4.02 through 4.09 shall comply with all applicable requirements of Article 9 of the Uniform Commercial Code as in effect in Illinois to the extent not now or hereafter duly waived by the Owner Trustee or the Owner Participant, provided that in any event it is agreed that ten days' notice to the Owner Participant, the Owner Trustee and the Lessee of the date, time and place (and terms, in the case of a private sale) of any proposed sale by the Loan Trustee of any of the Cars or any part thereof or interest therein is reasonable.

Notwithstanding any other provision of this Section 4, (i) the remedies set forth in Sections 4.02 through 4.09 are available to the Loan Trustee only if the Lease shall have been declared in default pursuant to Section 22 thereof or the outstanding principal amount of the Loan Certificates shall have been declared immediately due and payable pursuant to Section 4.01(c) hereof, and (ii) notwithstanding a declaration of default pursuant to Section 22 of the Lease or a declaration that the Loan Certificates are due and payable pursuant to Section 4.01(c), the Loan Trustee shall not in the exercise of its remedies hereunder or under Section 22 of the Lease terminate the Lease or sell or foreclose on any of the Collateral or dispose of any of the Cars or take any action which would cause any sale of or foreclosure on any of the Collateral or any disposition of any of the Cars to become unavoidable or irrevocable, in each case prior to the expiration of the Loan Certificate purchase rights provided in Section 2.10.

4.03 Return of Collateral, Etc. At the request of the Loan Trustee, the Owner Trustee shall promptly execute and deliver to the Loan Trustee, without warranty or recourse, such instruments of title and other documents as the Loan Trustee may deem necessary or advisable to enable the Loan Trustee or an agent or representative designated by the Loan Trustee, at such

time or times and place or places as the Loan Trustee may specify, to obtain possession of all or any part of the Collateral to the possession of which the Loan Trustee shall at the time be entitled hereunder. If the Owner Trustee shall for any reason fail to execute and deliver any such instruments or documents after such demand by the Loan Trustee, the Loan Trustee may (a) obtain a judgment conferring on the Loan Trustee the right to immediate possession and requiring the Owner Trustee to deliver such instruments and documents to the Loan Trustee, to the entry of which judgment the Owner Trustee hereby specifically consents, and for the purpose of obtaining which judgment the Owner Trustee hereby constitutes the Loan Trustee its attorney-in-fact, and (b) pursue all or part of such Collateral wherever it may be found and enter any of the premises of the Owner Trustee or the Lessee wherever such Collateral may be or be supposed to be and search for such Collateral and, subject to Section 4.13, take possession of and remove such Collateral.

4.04 Maintenance, Etc. of Collateral. Upon every such taking of possession, the Loan Trustee may, from time to time, at the expense of the Owner Trust Estate, make all such expenditures for maintenance, insurance, repairs, replacements, alterations, additions and improvements to and of the Collateral as it may deem proper. In each such case, the Loan Trustee shall have the right to use, operate, store, control or manage the Collateral and to carry on the business and to exercise all rights and powers of the Owner Trustee relating to the Collateral, as the Loan Trustee shall deem best, including the right to enter into any and all such agreements with respect to the maintenance, operation, leasing, storage or disposition of the Collateral or any part thereof as the Loan Trustee may determine; and the Loan Trustee shall be entitled to collect and receive all tolls, rents, revenues, issues, income, products and profits of the Collateral and every part thereof, without prejudice, however, to the right of the Loan Trustee under any provision of this Indenture to collect and receive all cash held by, or required to be deposited with, the Loan Trustee hereunder. Such tolls, rents, revenues, issues, income, products and profits shall be applied to pay the expenses of holding and operating the Collateral and of conducting the business thereof, and of all maintenance, repairs, replacements, alterations, additions and improvements, and to make all payments which the Loan Trustee may be required or may elect to make, if any, for taxes, assessments, insurance or other proper charges upon the Collateral or any part thereof (including the employment of engineers and accountants to examine, inspect and make reports upon the properties and books and records of the Owner Trustee), and all other payments which the Loan Trustee may be required or authorized to make under any provision of this Indenture, as well as just and reasonable compensation for the services of the Loan Trustee, and of all Persons properly engaged and employed by the Loan Trustee. The

Loan Trustee shall be under no liability for or by reason of any such taking of possession, entry, removal or holding, operation or management except such as may be the direct result of its own misconduct or negligence.

4.05 Loan Trustee Authorized to Execute Bills of Sale, Etc. The Owner Trustee irrevocably appoints the Loan Trustee the true and lawful attorney-in-fact of the Owner Trustee in its name and stead and on its behalf, for the purpose of effectuating any sale, assignment, transfer or delivery for the enforcement of the lien of this Indenture, whether pursuant to foreclosure or power of sale, or otherwise, to execute and deliver all such bills of sale, assignments and other instruments as the Loan Trustee may consider necessary or appropriate, with full power of substitution, the Owner Trustee hereby ratifying and confirming all that such attorney or any substitute shall lawfully do by virtue hereof. Nevertheless, if so requested by the Loan Trustee or any purchaser, the Owner Trustee shall ratify and confirm any such sale, assignment, transfer or delivery, by executing and delivering to the Loan Trustee or such purchaser all bills of sale, assignments, releases and other proper instruments to effect such ratification and confirmation as may be designated in any such request.

4.06 Purchase of Collateral by Loan Trustee or Holders of Loan Certificates. To the extent permitted by applicable law and subject to the standard of commercial reasonableness required by Section 4.02, the Loan Trustee or any holder of a Loan Certificate may be a purchaser of the Collateral or any part thereof or any interest therein at any sale thereof, whether pursuant to foreclosure or power of sale or otherwise. The Loan Trustee may apply against the purchase price therefor the amount then due under any of the Loan Certificates secured hereby, and any holder of a Loan Certificate may apply against the purchase price therefor the amount then due under any Loan Certificates held by such holder. The Loan Trustee or any holder of a Loan Certificate or any nominee thereof shall, upon any such purchase, acquire good title to the property so purchased, free of the lien of this Indenture and, to the extent permitted by Illinois law, free of all rights of redemption in the Owner Trustee or the Owner Participant.

4.07 Receipt a Sufficient Discharge. Upon any sale of the Collateral or any part thereof or interest therein, whether pursuant to foreclosure or power of sale or otherwise, the receipt of the officer making the sale under judicial proceedings or of the Loan Trustee shall be sufficient discharge to the purchaser for the purchase money, and such purchaser shall not be obliged to see to the application thereof.

4.08 Appointment of Receiver. The Loan Trustee shall, as a matter of right, be entitled to the appointment of a receiver (who may be the Loan Trustee or any successor or nominee thereof) for all or any part of the Collateral, whether such receivership be incidental to a proposed sale of the Collateral or the taking of possession thereof under Section 4.03 or otherwise, and the Owner Trustee hereby consents to the appointment of such a receiver and will not oppose any such appointment. Any receiver appointed for all or any part of the Collateral shall be entitled to exercise all the rights and powers with respect to the Collateral set forth in Section 4.03 pursuant to Section 4.14.

4.09 Sale a Bar. Any sale of the Collateral or any part thereof or any interest therein, whether pursuant to foreclosure or power of sale or otherwise hereunder, shall forever be a perpetual bar against the Owner Trustee after the expiration of the period, if any, during which the Owner Trustee shall have the benefit of redemption laws which may not be waived pursuant to Section 4.14.

4.10 Cure Rights. If an Indenture Event of Default shall have occurred and be continuing, the Owner Participant and others shall have the following rights hereunder:

(a) Owner Participant. If an Indenture Event of Default shall occur by reason of the failure of Western-Illinois to make any payment due under the Coal Delivery Contract in respect of Fixed Costs or Fixed Obligations (as therein defined), then the Owner Participant may, but shall not be obligated to, pay the Loan Trustee the amount of such Fixed Costs or Fixed Obligations, and any such payment made within five days after the occurrence of such Indenture Event of Default shall be deemed to cure any Indenture Event of Default which caused or resulted from, or which in the absence of such payment would have caused or resulted from, the failure of Western-Illinois to pay such Fixed Costs or Fixed Obligations, provided, however, that the cure rights set forth in this sentence shall not permit the Owner Participant to cure the failure of the Lessee to pay Rent due under the Lease on more than two consecutive semiannual Rent Payment Dates nor on more than four Rent Payment Dates in the aggregate. If the Lessee shall fail to make any payment of Supplemental Payments or shall fail to perform in accordance with any covenant, term or agreement in the Lease or the Participation Agreement, then the Owner Participant or the Owner Trustee may, but shall not be obligated to, make such payment to the Loan Trustee or to render performance of such covenant, term or agreement, and unless the Cars shall have been sold or re-let, any such payment to the Loan Trustee or such performance within five days after any such failure shall be deemed to cure any Indenture Event of Default which caused or resulted from, or which in the absence of such payment or performance would have caused or resulted from, such failure of the Lessee.

(b) Others. Any Indenture Event of Default shall be deemed cured if it constitutes a Lease Event of Default which has been cured pursuant to Section 22.6 of the Lease.

4.11 Remedies Cumulative. Each and every right, power and remedy herein specifically given to the Loan Trustee or otherwise in this Indenture shall be cumulative and shall be in addition to every other right, power and remedy herein specifically given or now or hereafter existing at law, in equity or by statute, and each and every right, power and remedy whether specifically herein given or otherwise existing may be exercised from time to time and as often and in such order as may be deemed expedient by the Loan Trustee, and the exercise or the beginning of the exercise of any power or remedy shall not be construed to be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy. No failure by the Loan Trustee to insist upon the strict performance of the terms hereof and no delay or omission by the Loan Trustee in the exercise of any right, remedy or power or in the pursuance of any remedy shall impair any such right, power or remedy or be construed to be a waiver of any default on the part of the Owner Trustee or Lessee or to be an acquiescence therein. Any action, suit or proceeding brought by the Loan Trustee or any holder of a Loan Certificate pursuant to this Indenture or otherwise, and any claim made by the Loan Trustee or such holder under this Indenture, may be compromised, withdrawn or otherwise dealt with by the Loan Trustee or such holder without any notice to or approval of the Owner Trustee, the Owner Participant or Lessee.

4.12 Discontinuance of Proceedings; Cure of Defaults after Acceleration. In case the Loan Trustee shall have proceeded to enforce any right, power or remedy under this Indenture by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Loan Trustee, then and in every such case the Owner Trustee, the Loan Trustee and Lessee shall be restored to their former positions and rights hereunder with respect to the Collateral, and all rights, remedies and powers of the Loan Trustee shall continue as if no such proceedings had been taken.

If at any time the outstanding principal amount of the Loan Certificates shall have become due and payable by acceleration pursuant to Section 4.01(c), then and in every such case the holders of a Majority in Interest of Loan Certificate Holders may, by written instrument filed with the Owner Trustee and the Loan Trustee, rescind and annul such declaration and the consequences thereof, provided that at the time the acceleration is annulled and rescinded:

(a) no judgment or decree has been entered for the payment of any moneys due pursuant to the

Lease, the Participation Agreement, the Indenture or the Loan Certificates;

(b) all arrears of interest upon all the Loan Certificates, and all other sums due and payable under the Loan Certificates, the Participation Agreement, the Lease and the Indenture to or for the benefit of the holders of the Loan Certificates (except any principal or interest on such Loan Certificates that has become due and payable solely by reason of such acceleration) shall have been duly paid; and

(c) each and every other Indenture Default or Indenture Event of Default shall have been duly waived or otherwise made good or cured;

and provided further that no such rescission and annulment shall extend to or affect any subsequent Indenture Default or Indenture Event of Default or impair any right consequent thereon, or shall require any holder of a Loan Certificate to repay any principal, interest or Loan Fee actually paid as a result of such acceleration. Neither Owner Trustee nor any Owner Participant shall have the right to cure any Indenture Event of Default except as provided in Section 4.10 hereof or with the consent of a Majority in Interest of Loan Certificate Holders.

4.13 No Action Contrary to Lessee's Rights under Lease. Notwithstanding any of the provisions of this Indenture to the contrary, neither the Owner Trustee nor the Loan Trustee shall, so long as no Lease Event of Default shall have occurred and be continuing, take any action which would interfere with Lessee's rights under the Lease, including the right to possession and use of the Cars, except in accordance with the provisions of the Lease.

4.14 Waiver of Various Rights by the Owner Trustee. Each of the Owner Trustee and the Owner Participant hereby waives and agrees, to the extent permitted by applicable law, that it will never seek or derive any benefit or advantage from any of the following, whether now existing or hereafter in effect, in connection with any proceeding under or in respect of this Indenture:

(a) any law providing for the valuation of or appraisal of any portion of the Collateral prior to a sale thereof;

(b) any law allowing for the redemption of any portion of the Collateral after a sale thereof; and

(c) any right to have any portion of the Collateral or other security for the Loan Certificates marshalled.

Each of the Owner Trustee and the Owner Participant covenants not to hinder, delay or impede the exercise of any right or remedy under or in respect of this Indenture, and agrees, to the extent permitted by applicable law, to suffer and permit its exercise as though no laws or rights of the character listed above were in effect.

Section 5. Duties of Loan Trustee; Certain Rights of Owner Trustee.

5.01 Action Upon Indenture Default or Indenture Event of Default. In the event the Loan Trustee shall have knowledge of an Indenture Default or an Indenture Event of Default, the Loan Trustee shall give prompt telegraphic or telephonic notice thereof to the Owner Trustee, the Owner Participant and each holder of record of a Loan Certificate (confirmed by written notice sent in the manner provided in Section 12.05 hereof). Subject to the terms of Section 5.04, the Loan Trustee shall take such action, or refrain from taking such action, with respect to any Indenture Default or Indenture Event of Default as the Loan Trustee shall be instructed in writing (i) by a Majority in Interest of Participants if such Indenture Default or Indenture Event of Default constitutes a Lease Default or Lease Event of Default and no Indenture Default or Indenture Event of Default not constituting a Lease Default or Lease Event of Default shall have occurred and be continuing and (ii) by a Majority in Interest of Loan Certificate Holders in other cases. If the Loan Trustee shall not have received instructions as above provided within 20 days after notice of such Indenture Default or Indenture Event of Default shall have been sent in the manner provided in Section 12.05 to the Owner Trustee, the Owner Participant, and the holders of record of the Loan Certificates, the Loan Trustee shall, subject to such instructions as may have been or are thereafter received pursuant to the preceding sentence, take such action, or refrain from taking such action, with respect to such Indenture Default or Indenture Event of Default as it shall determine to be advisable in the best interests of the holders of the Loan Certificates, and shall use the same degree of care and skill in connection therewith as a prudent man would use under the circumstances in the conduct of his own affairs. For all purposes of this Indenture, in the absence of actual knowledge on the part of an officer or an employee in the Corporate Trust Division of the Loan Trustee, the Loan Trustee shall not be deemed to have knowledge of an Indenture Default or Indenture Event of Default (except in the case of the failure of the Lessee to pay any installment of Rent within five days after the same shall become due and except in the case of the failure of the Lessee to maintain insurance as required under Section 15 of the Lease if the Loan Trustee shall receive notice thereof from an insurer or broker) unless notified in writing by the Owner Participant, any holder of a Loan Certificate, Lessee or the Owner Trustee.

5.02 Action Upon Instructions Generally. Subject to the terms of Sections 5.01, 5.04 and 5.07, upon the written instructions at any time and from time to time of a Majority in Interest of Participants, the Loan Trustee shall exercise such election or option or make such decision or determination, or give such notice, consent, waiver or approval, or take such other action under or in respect of, or exercise such rights, powers or remedies, under the Lease, the Purchase Contract, the Purchase Contract Assignment, or the Participation Agreement as shall be specified in such instructions, it being understood that without such written instructions the Loan Trustee shall not do any of the foregoing except as may be expressly provided in this Indenture. Subject to the terms of Sections 5.01, 5.04 and 5.07, upon the written instructions at any time and from time to time of a Majority in Interest of Loan Certificate Holders, the Loan Trustee shall exercise such right, remedy or power or take such action hereunder to preserve or protect the Collateral and the Trust Indenture Estate (including the discharge of Liens) as shall be specified in such instructions. The Loan Trustee, upon the instructions at any time and from time to time of any Loan Participant or of special counsel to any Loan Participant (or upon request of Lessee pursuant to Section 14.2 of the Participation Agreement), shall execute and file any financing statement (including continuation statements) or any other similar document relating to the security interests and assignments created by this Indenture, as may be specified in such instructions or request (which instructions or request shall be accompanied by an execution form of such financing statement or such continuation statement, as the case may be), as may be necessary to protect and preserve the security interests or assignments created by this Indenture.

5.03 Action upon Expiration of Term or Transfer of Cars. Upon payment in full of the principal of and interest and Loan Fees on all Loan Certificates and all other amounts then due the Loan Trustee and all holders of Loan Certificates hereunder, under the Participation Agreement or such Loan Certificates, the Loan Trustee shall, upon the written request of the Owner Trustee, execute and deliver to, or as directed in writing by, the Owner Trustee, an appropriate instrument (in due form for recording) releasing the Owner Trust Estate from the lien and security interest of this Indenture. Upon the payment in full of Termination Value or Stipulated Loss Value or Fair Market Sales Value for any Car pursuant to Section 16 or 18 of the Lease or the purchase of a Car pursuant to Section 23.2 of the Lease and the payment for such Car, the Loan Trustee shall upon the written request of Lessee (or if a Casualty Occurrence as to all Cars shall have occurred or Section 18 or 23.2 of the Lease shall be applicable, upon the written request of the Owner Trustee), provided that no Indenture Default or Indenture Event of Default shall have occurred and be continuing and that the Loan Trustee

shall have received all other amounts then due and payable by Lessee under such Section 16 or 18, execute and deliver to, or as directed in writing by, Lessee (or if a Casualty Occurrence as to all Cars shall have occurred, or Section 18 or 23.2 of the Lease shall be applicable, as directed in writing by the Owner Trustee), an appropriate instrument (in due form for recording) releasing such Car from the lien and security interest of this Indenture and releasing the Purchase Contract and the Purchase Contract Assignment, but only in respect of such Car, from the assignment and pledge thereof hereunder.

5.04 Indemnification, Etc. The Loan Trustee shall not be required to take any action or refrain from taking any action under Section 4, 5.01 (other than the first sentence thereof), 5.02 (other than the last sentence thereof) or 5.03 which might in its reasonable judgment require it to expend or risk its own funds or otherwise incur any financial liability unless it shall have been indemnified as provided in Section 12.2 of the Participation Agreement, or unless, in its reasonable judgment, the indemnities of Lessee shall be adequate for such purpose. The Loan Trustee shall not be required to take any action under Section 4, 5.01, 5.02 or 5.03, nor shall any other provision of this Indenture be deemed to impose a duty on the Loan Trustee to take any action, if it shall have been advised by counsel (who shall not be an employee of the Loan Trustee) that such action is contrary to the terms hereof or of the Lease or the Participation Agreement or is otherwise contrary to law.

5.05 Duties to Remove Liens and Provide Reports, Etc. The Loan Trustee shall, in its individual capacity and at its own cost and expense, promptly take such action as may be necessary duly to discharge all Liens on any part of the Trust Indenture Estate which result from claims against it arising out of events or conditions not related to the interest of the Loan Trustee in the Collateral or the administration of the Trust Indenture Estate. The Loan Trustee will furnish to each holder of a Loan Certificate, the Owner Trustee and the Owner Participant, promptly upon receipt thereof, duplicates or copies of all reports, notices, requests, demands, certificates, financial statements and other instruments furnished to the Loan Trustee hereunder or under the Lease or the Participation Agreement, including, without limitation, a copy of each insurance certificate, report or notice received pursuant to Section 15 of the Lease, except insofar as such report, notice, request, demand, certificate, financial statement or other instrument indicates on its face that it has been furnished by or forwarded to any such person.

5.06 No Action Except Under Lease, Indenture or Instructions. The Loan Trustee shall not manage, control, use, sell, dispose or otherwise deal with any Cars or any other part of the Trust Indenture Estate except (a) as required by the terms

of the Lease, (b) in accordance with the powers granted to, or the authority conferred upon, the Loan Trustee pursuant to this Indenture or (c) in accordance with the express terms hereof or with written instructions from a Majority in Interest of Loan Certificate Holders or, where required by the express terms hereof, from a Majority in Interest of Participants.

5.07 Certain Rights of Owner Trustee and Owner Participant. Notwithstanding any other provision of this Indenture: (a) the Owner Trustee and the Owner Participant shall retain all rights to receive the indemnities payable by Lessee to them or for their benefit under Section 6 of the Participation Agreement, including those indemnities payable by recomputation of Rent pursuant to Section 4.4(a) of the Lease; (b) the Owner Trustee shall have the right, but not to the exclusion of the Loan Trustee, (i) to receive from Lessee all notices, copies of all documents, and all information which the Lessee is permitted or required to give or furnish to the "Lessor" or the "Owner Trustee" pursuant to the Lease, or to the "Owner Trustee" pursuant to the Participation Agreement, (ii) to inspect the Cars, (iii) to exercise the right to solicit bids pursuant to Section 18 of the Lease, (iv) to exercise the rights of Lessor under Section 24 of the Lease, and (v) to commence an action to require Lessee to perform its obligations under Sections 8, 9, 10, 11, 12, 13, 14, 15, 19, or 20 of the Lease other than obligations expressly owed to the Loan Trustee or the Loan Participant; and (c) so long as no Indenture Default or Indenture Event of Default shall have occurred and be continuing, the Owner Trustee shall have the right, to the exclusion of the Loan Trustee, to accept delivery of Cars as provided in the Lease and to exercise the rights of the Lessor under Section 23 of the Lease.

Section 6. The Loan Trustee.

6.01 Acceptance of Trusts and Duties. The Loan Trustee accepts the trusts hereby created and applicable to it and agrees to perform the same but only upon the terms of this Indenture, and to receive and disburse all monies constituting part of the Trust Indenture Estate in accordance with the provisions hereof. The Loan Trustee shall not be answerable or accountable under any circumstances, except (a) for its own misconduct or negligence, or (b) in the case of the inaccuracy of any representation or warranty of the Loan Trustee contained in the Participation Agreement, or (c) for the performance of its obligations under the first sentence of Section 5.05; and Loan Trustee shall not be liable for any action or inaction of the Owner Trustee.

6.02 Absence of Duties Except as Specified. The Loan Trustee shall have no duty or obligation to manage, control, use, sell, dispose of or otherwise deal with any Cars or any other part of the Trust Indenture Estate, or otherwise to take or refrain from taking any action under, or in connection with, this

Indenture, the Lease, the Purchase Contract, the Purchase Contract Assignment, the Coal Delivery Contract, or the Coal Delivery Contract Assignment, except as expressly provided by the terms of this Indenture, or pursuant to instructions given in accordance with Section 5.02 or 8.01 hereof and no implied duties or obligations shall be read into this Indenture against the Loan Trustee. Except in accordance with written instructions or requests furnished pursuant to Section 5 or as expressly provided in Section 5, the Loan Trustee shall have no duty (a) to see to any recording or filing of the Lease or of this Indenture (or any financing or continuation statements in respect thereto), or to see to the maintenance of any such registration, recording or filing, (b) to see to any insurance on the Cars or to effect or maintain any such insurance, whether or not Lessee shall be in default with respect thereto, (c) to see to the payment or discharge of any tax, assessment or other governmental charge or any Lien of any kind owing with respect to, or assessed or levied against, any part of the Trust Indenture Estate, (d) to confirm or verify or to inquire into the failure to receive any financial statements of Lessee, or (e) to inspect the Cars at any time or ascertain or inquire as to the performance or observance of any of Lessee's covenants under the Lease with respect to the Cars. The Loan Trustee shall have no obligation or liability under the Lease by reason of or arising out of this Indenture, nor shall the Loan Trustee be required or obligated in any manner, except as herein expressly provided, to perform or fulfill any of the obligations of the Owner Trustee under any of the agreements to which it is a party, or, except as herein expressly provided, to make any payment, or to make any inquiry as to the nature or sufficiency of any payment received by it, or present or file any claim, or take any action to collect or enforce the payment of any amounts which may have been assigned to it or to which it may be entitled at any time or times.

6.03 No Representations or Warranties. THE LOAN TRUSTEE MAKES (a) NO REPRESENTATION OR WARRANTY AS TO THE TITLE, VALUE, CONDITION, DESIGN, OPERATION, MERCHANTABILITY OR FITNESS FOR USE OF THE CARS, OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE CARS WHATSOEVER, and (b) no representation or warranty as to the validity or enforceability of this Indenture, the Trust Agreement, the Owner Trust Agreement, the Participation Agreement, the Loan Certificates, the Lease, the Purchase Contract, the Purchase Contract Assignment, the Coal Delivery Contract, or the Coal Delivery Contract Assignment or as to the correctness of any statement contained in any thereof, except to the extent that any such statement is expressly made therein by the Loan Trustee, and except as set forth in Section 10.4 of the Participation Agreement.

6.04 No Segregation of Monies; No Interest. Except as may be required by Sections 3.04 and 10, any monies received by

the Loan Trustee hereunder need not be segregated in any manner except to the extent required by law, and such monies may be deposited under such general conditions as may be prescribed by law in the general banking department of the Loan Trustee, and the Loan Trustee shall not be liable from any interest thereon.

6.05 Reliance; Agents; Advice of Counsel. The Loan Trustee shall incur no liability to anyone in acting upon any signature, instrument, notice, resolution, request, consent, order, certificate, report, opinion, bond or other document or paper reasonably believed by it to be genuine and reasonably believed by it to be signed by the proper party or parties. The Loan Trustee may accept in good faith a copy of a resolution of the Board of Directors of Lessee, certified by the Secretary or an Assistant Secretary of Lessee as duly adopted and in full force and effect, as conclusive evidence that such resolution has been duly adopted by said Board and that the same is in full force and effect. As to the amount of any payment to which the holder of any Loan Certificate is entitled pursuant to clause "Second" of Section 3.03, the Loan Trustee may for all purposes hereof rely on a certificate of the holder of such Loan Certificate. As to any fact or matter the manner of ascertainment of which is not specifically described herein, the Owner Trustee and the Loan Trustee may for all purposes hereof rely on a certificate, signed by the President or any Vice President, signing with the Treasurer or an Assistant Treasurer or the Secretary or an Assistant Secretary, of the Owner Participant or Lessee or signed by an authorized officer of a Loan Participant as to such fact or matter, and such certificate shall constitute full protection to the Owner Trustee and the Loan Trustee for any action taken or omitted to be taken by it in good faith in reliance thereon. The Loan Trustee shall furnish to the Owner Trustee upon request such information and copies of such documents as the Loan Trustee may have and as are necessary for the Owner Trustee to perform its duties under Section 2. The Loan Trustee may assume, and shall be fully protected in assuming, that the Owner Trustee is authorized by the Trust Agreement to enter into this Indenture and to take all action to be taken by it pursuant to the provisions hereof and shall not be under any duty to inquire into the authorization of the Owner Trustee with respect thereto. In the administration of the trusts hereunder, the Loan Trustee may execute any of the trusts or powers hereof and perform its powers and duties hereunder directly or through agents or attorneys and may, at the expense of the Trust Indenture Estate (but subject to the priorities of payment set forth in Section 3), consult with counsel, accountants and (with the prior approval of a Majority in Interest of Loan Certificate Holders) other skilled persons to be selected and retained by it (other than persons regularly in its employ), and the Loan Trustee shall not be liable for anything done, suffered or omitted in good faith by it in accordance with the advice or opinion of any such counsel, accountants or

other skilled persons given within its or their particular area of competence as long as the Loan Trustee shall have exercised reasonable care in good faith in selecting such counsel, accountants or other skilled persons.

6.06 Not Acting in Individual Capacity. Except as otherwise provided in Section 6.01, the Loan Trustee acts hereunder solely as trustee as herein provided and not in its individual capacity, and all persons, other than the holders of Loan Certificates as provided in this Indenture, having any claim against the Loan Trustee by reason of the transactions contemplated hereby shall, subject to the Lien and priorities of payment as herein provided, look only to the Trust Indenture Estate for payment or satisfaction thereof except to the extent set forth in the last sentence of Section 6.01.

6.07 No Compensation from Holders of Loan Certificates or from Trust Indenture Estate. The Loan Trustee agrees that it shall have no right against the holders of the Loan Certificates or, except as provided in Sections 3.03 and 4.04, the Trust Indenture Estate for any fee as compensation for its services hereunder.

Section 7. Successor Loan Trustees and Separate Trustees.

7.01 Resignation or Removal of Loan Trustee; Appointment of Successor.

(a) Resignation or Removal. The Loan Trustee or any successor thereto may resign at any time without cause by giving at least 60 days' prior written notice to the Owner Trustee, the Owner Participant, the Lessee and each holder of a Loan Certificate, such resignation to be effective on the acceptance of appointment by the successor Loan Trustee pursuant to the provisions of Section 7.01(b). In addition, a Majority in Interest of Loan Certificate Holders may at any time remove the Loan Trustee without cause by an instrument in writing delivered to the Owner Trustee and the Loan Trustee, and the Owner Trustee shall give prompt written notification thereof to the Owner Participant, the Lessee and each holder of a Loan Certificate. Such removal will be effective on the acceptance of appointment by the successor Loan Trustee pursuant to the provisions of Section 7.01(b). In the case of the resignation or removal of the Loan Trustee, a Majority in Interest of Loan Certificate Holders may appoint a successor Loan Trustee by an instrument signed by such holders. If a successor Loan Trustee shall not have been appointed within 30 days after such resignation or removal, the Loan Trustee or any holder

of a Loan Certificate may apply to any court of competent jurisdiction to appoint a successor Loan Trustee to act until such time, if any, as a successor Loan Trustee shall have been appointed by the holders of the Loan Certificates as above provided. The successor Loan Trustee so appointed by such court shall immediately and without further act be superseded by successor Loan Trustee appointed by the holders of the Loan Certificates as above provided.

(b) Acceptance of Appointment. Any successor Loan Trustee, whether appointed by a court or by a Majority in Interest of Loan Certificate Holders, shall execute and deliver to the Owner Trustee, to each Loan Participant and to the predecessor Loan Trustee an instrument accepting such appointment, and thereupon such successor Loan Trustee, without further act, shall become vested with all the estates, properties, rights, powers and duties of the predecessor Loan Trustee hereunder in the trusts hereunder applicable to it with like effect as if originally named the Loan Trustee herein; but nevertheless upon the written request of such successor Loan Trustee or a Majority in Interest of Loan Certificate Holders, such predecessor Loan Trustee shall execute and deliver an instrument transferring to such successor Loan Trustee, upon the trusts herein expressed applicable to it, all the estates, properties, rights and powers of such predecessor Loan Trustee, and such predecessor Loan Trustee shall duly assign, transfer, deliver and pay over to such successor Loan Trustee all monies or other property then held by such predecessor Loan Trustee hereunder.

(c) Qualifications. Any successor Loan Trustee, however appointed, shall be a bank or trust company having a combined capital and surplus of at least \$100,000,000 and having its chief place of business in Chicago, Illinois, if there be such an institution willing, able and legally qualified to perform the duties of the Loan Trustee hereunder upon reasonable or customary terms.

(d) Merger, Etc. Any corporation into which the Loan Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Loan Trustee shall be a party, or any corporation to which substantially all the business of the Loan Trustee may be transferred, shall, subject to the terms of Section 7.01(c), be the Loan Trustee under this Indenture without further act.

7.02 Appointment of Additional and Separate Trustees.

(a) Appointment. Whenever (i) the Loan Trustee shall deem it necessary or prudent in order to conform to any law of any jurisdiction in which all or any part of the Trust Indenture Estate shall be situated or to make any claim or bring any suit with respect to or in connection with the Trust Indenture Estate, the Indenture, the Lease, the Purchase Contract, the Purchase Contract Assignment, the Coal Delivery Contract, the Coal Delivery Contract Assignment, the Trust Agreement, the Loan Certificates or any of the transactions contemplated by the Participation Agreement, or (ii) the Loan Trustee shall be advised by counsel, satisfactory to it, that it is so necessary or prudent in the interest of the holders of the Loan Certificates or (iii) the Loan Trustee shall have been requested to do so by a Majority in Interest of Loan Certificate Holders, then, in any such case, the Loan Trustee and the Owner Trustee shall execute and deliver an indenture supplemental hereto and all other instruments and agreements necessary or proper to constitute another bank or trust company or one or more persons approved by the Loan Trustee, either to act as additional trustee or trustees of all or any part of the Trust Indenture Estate, jointly with the Loan Trustee, or to act as separate trustee or trustees of all or any part of the Trust Indenture Estate, in any such case with such powers as may be provided in such indenture supplemental hereto, and to vest in such bank, trust company or person as such additional trustee or separate trustee, as the case may be, any property, title, right, title, or power of the Loan Trustee deemed necessary or advisable by the Loan Trustee, subject to the remaining provisions of this Section 7.02. In the event the Owner Trustee shall not have joined in the execution of such indenture supplemental hereto within 15 days after the receipt of written request from the Loan Trustee so to do, or in case an Indenture Default or an Indenture Event of Default shall occur and be continuing, the Loan Trustee may act under the foregoing provisions of this Section 7.02 without the concurrence of the Owner Trustee; and the Owner Trustee hereby appoints the Loan Trustee its agent and attorney to act for it under the foregoing provisions of this Section 7.02 in either of such contingencies. The Loan Trustee may execute, deliver and perform any such conveyance, assignment or other instrument in writing as may be required by any additional trustee or separate trustee for more fully and certainly vesting in and confirming to it or him any

property, title, right or power which by the terms of such indenture supplemental hereto are expressed to be conveyed or conferred to or upon such additional trustee or separate trustee, and the Owner Trustee shall, upon the Loan Trustee's request, join therein and execute, acknowledge and deliver the same; and the Owner Trustee hereby makes, constitutes and appoints the Loan Trustee its agent and attorney-in-fact for it and in its name, place and stead to execute, acknowledge and deliver any such deed, conveyance, assignment or other instrument in the event that the Owner Trustee shall not itself execute and deliver the same within 15 days after receipt by it of such request so to do.

(b) Powers. Every additional trustee and separate trustee hereunder shall, to the extent permitted by law, be appointed and act, and the Loan Trustee shall act, subject to the following provisions and conditions:

(i) all powers, duties, obligations and rights conferred upon the Loan Trustee in respect of the receipt, custody payment of monies, or the investment of monies, shall be exercised solely by the Loan Trustee;

(ii) all other rights, powers, duties and obligations conferred or imposed upon the Loan Trustee shall be conferred or imposed upon and exercised or performed by the Loan Trustee and such additional trustee or trustees and separate trustee or trustees jointly, except to the extent that under any law of any jurisdiction in which any particular act or acts are to be performed the Loan Trustee shall be incompetent or unqualified to perform such act or acts, in which event such rights, powers, duties and obligations (including holding of title to the Trust Indenture Estate in any such jurisdiction) shall be exercised and performed by such additional trustee or trustees or separate trustee or trustees;

(iii) no power hereby given to, or exercisable as provided herein by, any such additional trustee or separate trustee shall be exercised hereunder by such additional trustee or separate trustee except jointly with, or with the consent of, the Loan Trustee; and

(iv) no trustee hereunder shall be personally liable by reason of any act or omission of any other trustee hereunder.

If at any time the Loan Trustee shall deem it no longer necessary or prudent in order to conform to any such law or take any such action or shall be advised by such counsel that it is no longer so necessary or prudent in the interest of the holders of the Loan Certificates, or in the event that the Loan Trustee shall have been requested to do so in writing by a Majority in Interest of Loan Certificate Holders, the Loan Trustee and the Owner Trustee shall execute and deliver an indenture supplemental hereto and all other instruments and agreements necessary or proper to remove any additional trustee or separate trustee. In the event the Owner Trustee shall not have joined in the execution of such indenture supplemental hereto within 15 days after the receipt of a written request from the Loan Trustee so to do, or in case an Indenture Default or an Indenture Event of Default shall have occurred and be continuing, the Loan Trustee may act on behalf of the Owner Trustee to the same extent as is provided in Section 7.02(a).

(c) Loan Trustee as Agent. Any additional trustee or separate trustee may at any time by an instrument in writing constitute the Loan Trustee its agent or attorney-in-fact, with full power and authority, to the extent which may be authorized by law, to do all acts and things and exercise all discretions which it is authorized or permitted to do or exercise, for and in its behalf and in its name. In case any such additional trustee or separate trustee shall die, become incapable of acting, resign or be removed, all the assets, property, rights, powers, trusts, duties and obligations of such additional trustee or separate trustee, as the case may be, so far as permitted by law, shall vest in and be exercised by the Loan Trustee, without the appointment of a new successor to such additional trustee or separate trustee, unless and until a successor is appointed in the manner hereinbefore provided.

(d) Requests, Etc. Any request, approval or consent in writing by the Loan Trustee to any additional trustee or separate trustee shall be sufficient warrant to such additional trustee or separate trustee, as the case may be, to take such action as may be so requested, approved or consented to.

(e) Subject to Indenture, Etc. Each additional trustee and separate trustee appointed pursuant to this Section shall be subject to, and shall have the benefit of, Sections 3 through 9 hereof insofar as they apply to the Loan Trustee. Notwithstanding any other provision of this Section 7.02, the powers of any additional trustee or separate trustee appointed pursuant to this Section 7.02 shall not in any case exceed those of the Loan Trustee hereunder.

Section 8. Supplements and Amendments to this Indenture and Other Documents.

8.01 Conditions and Limitations. At any time and from time to time, but only upon the written request of a Majority in Interest of Participants, (a) the Owner Trustee and the Loan Trustee shall execute a supplement hereto for the purpose of adding provisions to, or changing or eliminating provisions of, this Indenture as specified in such request, (b) the Owner Trustee shall enter into such written amendment of or supplement to the Lease, the Purchase Contract Assignment, the Purchase Contract, the Coal Delivery Contract or the Coal Delivery Contract Assignment as Lessee (and (1) in the case of the Purchase Contract Assignment and the Purchase Contract, the Manufacturer and (2) in the case of the Coal Delivery Contract Assignment and the Coal Delivery Contract, Western Fuels) may agree to and as may be specified in such request, or execute and deliver such written modification of the terms of the Lease, the Purchase Contract Assignment, the Purchase Contract, the Coal Delivery Contract or the Coal Delivery Contract Assignment as may be specified in such request and (c) the Loan Trustee shall enter into such amendment of or supplement to the Participation Agreement as may be specified in such request, provided that, even if the unpaid principal amount of all Loan Certificates then outstanding shall have been declared due and payable pursuant to Section 4.01(c), without the consent of the Owner Participant and each holder of a Loan Certificate then outstanding, no such supplement to this Indenture or amendment of or supplement to the Lease, the Purchase Contract Assignment, the Purchase Contract, the Coal Delivery Contract or the Coal Delivery Contract Assignment, or waiver or modification of the terms of any thereof or amendment of or supplement to the Participation Agreement, shall (i) modify any of the provisions of this Section 8.01 or of Section 3, 4.01, 4.10, 5.01, 5.02, 5.03, 5.04, 5.07, 8.02, 9.11, 12.01, 12.02, 12.04, 12.07, 12.08 or 12.10 hereof, the definitions of the terms "Indenture Default," "Indenture Event of Default," "Lease Default," "Lease Event of Default," "Majority in Interest of Loan Certificate Holders" and "Majority in Interest of Participants" contained herein or the percentage of Loan Certificate Holders required to take or prove any action hereunder, (ii) reduce the amount or extend the time of payment of

any amount owing or payable under any Loan Certificate or reduce the interest payable on any Loan Certificate (unless, in any such case all of the holders of Loan Certificates outstanding shall have consented thereto), or alter or modify the provisions of Section 3 hereof with respect to the manner of payment or the order of priorities in which distributions thereunder shall be made as between the holders of Loan Certificates and the Owner Participant, (iii) reduce, modify or amend any indemnities in favor of any Participant, any holder of a Loan Certificate, the Owner Trustee, the Owner Trust Estate, the Trust Indenture Estate or the Loan Trustee, (iv) reduce the amount or extend the time of payment of the Rent, Stipulated Loss Value or Termination Value for the Cars, or any thereof, as set forth in the Lease, (v) modify, amend or supplement the Lease or consent to any assignment of the Lease, in either case releasing Lessee from its obligations in respect of the payment of the Rent, Stipulated Loss Value, or Termination Value for the Cars or any thereof or changing the absolute and unconditional character of such obligations as set forth in Section 6 of the Lease, or (vi) alter, impair, diminish or deprive the Loan Participants or the holders of the Loan Certificates of the lien and security interest in the Owner Trust Estate created or intended to be created by or pursuant to this Indenture, and provided, further, that without the consent of the Owner Participant no such amendment, supplement, waiver or modification shall increase the liabilities or obligations of the Owner Participant hereunder or under the Participation Agreement or the Owner Trust Agreement or shall have the effect of reducing the obligations of Lessee to the Owner Trustee or the Owner Participant under either the Participation Agreement or Sections 8, 9, 10, 11, 12, 13, 14, 15, 19, 20, 23 or 24 of the Lease (except for waivers of Sections 10, 11 and 12 of the Lease). Notwithstanding the foregoing, (A) subject to Section 5.03 hereof, without the consent of each holder of a Loan Certificate then outstanding, no such supplement to this Indenture or waiver or modification of the terms thereof or any other document shall permit the creation of any Lien on the Trust Indenture Estate or any part thereof, except as herein expressly permitted, or deprive the holder of any Loan Certificate then outstanding of the benefit of the lien and security interest of this Indenture in the Owner Trust Estate, and (B) Lessee may enter into any change order or other amendment or modification to the Purchase Contract or the Coal Delivery Contract without the consent or agreement of any other Person to the extent provided in the Purchase Contract Assignment or the Coal Delivery Contract Assignment, respectively.

8.02 Supplemental Indenture Without Consent. Without the consent of any of the holders of the Loan Certificates then outstanding or the Owner Participant but subject to the provisions of Section 8.03, on the request of either of the Loan Trustee or the Owner Trustee, the other shall join with it in entering into any indenture supplemental hereto (a) to evidence

the subjection of any Car to the security interest and lien of this Indenture, (b) to evidence the succession of another entity as Owner Trustee in accordance with the terms of the Owner Trust Agreement, (c) to evidence the succession of a new entity as the Loan Trustee hereunder, the removal of the Loan Trustee, or the appointment of any co-trustee or co-trustees or any separate or additional trustee or trustees, in each case in accordance with the terms of Section 7, or (d) to provide for the creation of one or more series of Loan Certificates in compliance with the provisions of Section 11, provided that this Section 8.02 shall not supersede any provision of Section 11 requiring the obtaining of consent of any Persons.

8.03 Trustees Protected. If in the opinion of the Loan Trustee or the Owner Trustee any document required to be executed pursuant to the terms of Section 8.01 or 8.02 adversely affects any right or duty of or affects any immunity or indemnity in favor of the Loan Trustee or the Owner Trustee under this Indenture, the Owner Trust Agreement or the Participation Agreement, the Loan Trustee or the Owner Trustee, as the case may be, may in its discretion decline to execute such document. As to any such document required to be executed by the Loan Trustee pursuant to the terms of Section 8.01 or 8.02, other than pursuant to clause (a) of Section 8.02, the Loan Trustee may request from counsel satisfactory to a Majority in Interest of Loan Certificate Holders an opinion satisfactory in form and substance to the Loan Trustee that such document complies with the provisions of this Indenture, does not deprive the Loan Trustee or the Loan Participants of the benefits of the Trust Indenture Estate or of the mortgage, security interest and assignment hereby created or purported to be created with respect to the Trust Indenture Estate and that all consents required by the terms of Section 8.01 hereof in connection with the execution of such document have been obtained, provided that if the Loan Trustee shall receive such an opinion in the case of any such document of the type referred to in clauses (i) through (vi) and clause (A) of Section 8.01 or in clause (d) of Section 8.02, the Loan Trustee shall be fully protected in relying on such opinion.

8.04 Form of Request. It shall not be necessary for any written request of the Loan Participants furnished pursuant to Section 8.01 to specify the particular form of the proposed documents to be executed pursuant to that Section, but it shall be sufficient if such request shall indicate the substance thereof.

8.05 Documents Mailed to Holders. Promptly after the execution by the Owner Trustee or the Loan Trustee of any document entered into pursuant to Section 8.01 or 8.02, the Owner Trustee or the Loan Trustee shall mail, by first class mail,

postage prepaid, a conformed copy thereof to the Owner Participant, the Lessee, and each holder of a Loan Certificate at its address last known to the Owner Trustee, but any failure to mail such conformed copies shall not impair or affect the validity of such document.

Section 9. Agreements of Owner Trustee.

9.01 Liability of Owner Trustee Under Other Documents. Except as otherwise expressly provided herein, the Owner Trustee shall remain liable under the Owner Trust Agreement, the Lease, the Participation Agreement, the Purchase Contract, the Purchase Contract Assignment, the Coal Delivery Contract, and the Coal Delivery Contract Assignment to perform all of the obligations assumed by it thereunder, all in accordance with and pursuant to the terms and provisions thereof. The Owner Trustee shall have no obligation or liability, except as herein expressly provided, to make any payment, or to make any inquiry as to the nature or sufficiency of any payment received by it, or present or file any claim, or take any action to collect or enforce the payment of any amounts which may have been assigned to it or to which it may be entitled at any time or times.

9.02 Appointment of Loan Trustee as Attorney. The Owner Trustee hereby constitutes the Loan Trustee the true and lawful attorney of the Owner Trustee, irrevocably, with full power (in the name of the Owner Trustee or otherwise) to ask, require, demand, receive, compound and give acquittance for any and all monies and claims for monies due and to become due under or arising out of the Lease, the Purchase Contract, the Purchase Contract Assignment, the Coal Delivery Contract, the Coal Delivery Contract Assignment or the Participation Agreement, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which the Loan Trustee may deem to be necessary or advisable in the premises.

9.03 Payment of Monies to Loan Trustee. The Owner Trustee agrees that promptly on receipt thereof, it will transfer to the Loan Trustee any and all monies from time to time received by it constituting part of the Trust Indenture Estate, for distribution or retention by the Loan Trustee pursuant to this Indenture except that the Owner Trustee shall accept for distribution pursuant to the Owner Trust Agreement any amounts distributed to it by the Loan Trustee under this Indenture.

9.04 After-Acquired Property; Further Assurances; Financing Statements. All property acquired by the Owner Trustee as trustee under the Owner Trust Agreement after the date hereof which by the terms hereof or of the Participation Agreement is required or intended to be subjected to the lien and security

interest of this Indenture shall, immediately upon the acquisition thereof by the Owner Trustee and without further mortgage, conveyance or assignment, become subject to the lien and security interest of this Indenture as fully as though now owned by the Owner Trustee and specifically described herein. Nevertheless, the Owner Trustee will do all such further acts and execute, acknowledge, deliver, record and file trust supplements and all such further conveyances, financing statements and assurances as the Loan Trustee, any Loan Participant or Lessee may deem necessary or appropriate to effectively subject such after-acquired property to the Lien and security interest of this Indenture. At any time and from time to time, upon the request of the Loan Trustee, the Owner Trustee shall promptly and duly execute and deliver any and all such further instruments and documents as the Loan Trustee may deem desirable in obtaining the full benefits of the security interests and assignment created or intended to be created hereby and of the rights and powers herein granted. Upon the instructions at any time and from time to time of the Loan Trustee, the Owner Trustee shall execute and file any financing statement (and any continuation statement with respect to any such financing statement) or any other similar document relating to the security interests and assignments created by this Indenture, as may be specified in such instructions.

9.05 Concerning the Actions of Owner Trustee. Except as otherwise provided in Section 5.07, the Owner Trustee agrees that, except upon the instructions of the Loan Trustee, it will take no action with respect to any part of the Collateral or the Trust Indenture Estate. The Owner Trustee shall exercise any such election or option or make any decision or determination under or give any notice, consent, waiver or approval under or in respect of the Unit-Train Financing Agreements and shall take such other steps to exercise all rights, powers and remedies on the part of the Owner Trustee under or with respect to the Unit-Train Financing Agreements as the Owner Trustee may be instructed to take by the Loan Trustee pursuant to the terms of this Indenture, and in any such case the Owner Trustee shall be fully protected in relying on an opinion of counsel to the Loan Trustee (who may not be an employee of the Loan Trustee) to the effect that such instructions of the Loan Trustee are given pursuant to the terms of this Indenture, provided, that nothing in this Section 9.05 shall limit the rights of the Owner Trustee under Section 5.07, or shall authorize the Owner Trustee to act on any instruction from the Loan Trustee to dispose of any interest in the Owner Trust Estate without the prior written consent of the Owner Participant except as permitted or required by Section 4 or by the Owner Trust Agreement. The Owner Trustee warrants and represents that it has not assigned or pledged, and hereby covenants that it will not assign or pledge, so long as this Indenture shall remain in effect, any of its estate, right, title or interest hereby assigned or pledged, to anyone other than the

Loan Trustee, and that it will not, except as provided in this Indenture, (a) enter into any agreement amending or supplementing any Unit-Train Financing Agreement, (b) accept any payment from, or settle or compromise any claim against, Lessee or any other person arising under any of such agreements, (c) submit or consent to the submission to arbitration of any dispute, difference or other matter arising under or in respect of any of such agreements or the rights of the Loan Trustee hereunder or thereunder or (d) take any action, the taking of which might result in an alteration or impairment of any of such agreements or the rights of the Loan Trustee hereunder or thereunder or the security interest and assignment created or intended to be created hereby or of any of the rights created hereby or thereby. Nothing in this Section 9.05 shall preclude the adjustment by the Owner Participant or the Owner Trustee of any claim under liability insurance policies maintained by Lessee under the Lease to the extent insurance proceeds are payable thereunder to or for the benefit of the Owner Participant or the Owner Trustee for its own account.

The Owner Trustee shall not be required to take any action or refrain from taking any action under this Section 9.05 which might in its reasonable judgment require it to expend or risk its own funds or otherwise incur any financial liability unless it shall have been indemnified as provided in Section 12.2 of the Participation Agreement, or unless, in its reasonable judgment, the indemnities of the Lessee shall be adequate for such purpose. The Owner Trustee shall not be required to take any action under this Section 9.05, nor shall any other provision of this Indenture be deemed to impose a duty on the Owner Trustee to take any action, if it shall have been advised by counsel (who shall not be an employee of the Owner Trustee) that such action is contrary to the terms hereof or of the Lease, the Owner Trust Agreement or the Participation Agreement or is otherwise contrary to law.

9.06 Ownership of Cars. The Owner Trustee shall take such action as may be reasonably requested by the Loan Trustee or Lessee to cause the Cars to become and remain duly owned in the name of the Owner Trustee under any applicable law, and shall complete, on the basis of information supplied by Lessee, and promptly file (and furnish the Loan Trustee and each Loan Participant with a duplicate or copy of) any and all reports required to be filed with any governmental authority on account of such ownership of the Cars, to the extent not required to be completed or filed by the Lessee under the Lease.

9.07 Notice of Indenture Default; Furnishing of Documents. In the event the Owner Trustee shall have knowledge of an Indenture Default or an Indenture Event of Default notice of which has not been given by the Loan Trustee pursuant to Section 5.01 or by Lessee, the Owner Trustee shall give prompt

telegraphic or telephonic notice (confirmed by written notice sent in the manner provided in Section 12.05) of such Indenture Default or Indenture Event of Default, to the Loan Trustee and each Loan Participant, which notice shall set forth in reasonable detail the circumstances surrounding such Indenture Default or Indenture Event of Default and shall describe in reasonable detail (if such default is not a Lease Default or Lease Event of Default) the action the Owner Trustee or the Owner Participant is taking or proposes to take in respect thereto. The Owner Trustee shall furnish to the Loan Trustee and to each Loan Participant, promptly upon receipt thereof, a duplicate or copy of all reports, notices, requests, demands, certificates, financial statements and other instruments furnished to the Owner Trustee under the Unit-Train Financing Agreements, including, without limitation, a copy of each insurance certificate, report or notice or other evidence received pursuant to Section 15 of the Lease, except insofar as such report, notice, request, demand, certificate, financial statement or other instrument indicates on its face that it has been furnished by or forwarded to any such Person or the Loan Trustee shall have informed the Owner Trustee that it shall have been furnished by or forwarded to any such Person. For all purposes of this Indenture, in the absence of actual knowledge on the part of an officer in the Corporate Trust Department of the Owner Trustee, the Owner Trustee shall not be deemed to have knowledge of an Indenture Default or Indenture Event of Default unless notified in writing by the Owner Participant, any holder of a Loan Certificate or the Lessee.

9.08 No Representations or Warranties. THE OWNER TRUSTEE MAKES (a) NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO THE TITLE, VALUE, COMPLIANCE WITH SPECIFICATIONS, CONDITION, DESIGN, OPERATION, MERCHANTABILITY OR FITNESS FOR USE OF THE CARS, OR ANY OTHER REPRESENTATION OR WARRANTY EXPRESS OR IMPLIED WITH RESPECT TO THE CARS WHATSOEVER, except that the Owner Trustee hereby represents, warrants and covenants, in its individual capacity, to the Loan Trustee and each Loan Participant that (i) on the Delivery Date the Owner Trustee shall have received whatever title to the Cars as was conveyed to it by the Manufacturer, (ii) on the Delivery Date the Cars shall be free of Liens resulting from claims against the Owner Trustee not related to the ownership or administration of the Owner Trust Estate, and (iii) the Cars shall while a part of the Trust Indenture Estate and at the time of any conveyance therefrom be free of Liens resulting from any acts of the Owner Trustee except Liens created by this Indenture, the Owner Trust Agreement or the Purchase Contract Assignment or Liens arising from the administration of the Owner Trust Estate or the Trust Indenture Estate and (b) no representation or warranty as to the validity, legality or enforceability of any Unit-Train Financing Agreement, or as to the correctness of any statement contained therein except to the extent that any such statement is expressly made therein by the

Owner Trustee, and except as set forth in Section 10.3 of the Participation Agreement.

9.09 Discharge of Liens. The Owner Trustee agrees that it will, in its individual capacity and at its own cost and expense, promptly take such action as may be necessary to discharge any Liens on any properties of the Owner Trustee pledged or mortgaged as part of the Collateral or the Trust Indenture Estate which result from claims against it not related to the ownership of the Cars, the administration of the Owner Trust Estate or Trust Indenture Estate, or the performance of its duties as Owner Trustee.

9.10 Owner Trustee Not Acting in Individual Capacity. First National Bank and Trust Company of Evanston is entering into this Indenture solely as Owner Trustee under the Owner Trust Agreement and not in its individual capacity and in no case whatsoever shall First National Bank and Trust Company of Evanston (or any entity acting as successor Owner Trustee under the Owner Trust Agreement) be personally liable for, or for any loss in respect of, any of the statements, representations, warranties, agreements, or obligations of the Owner Trustee hereunder, as to all of which all interested parties shall look solely to the Owner Trust Estate, except (a) for its own willful misconduct, breach of contract or gross negligence, or (b) in the case of the inaccuracy of any of its representations or warranties contained in Section 10.3 of the Participation Agreement or Section 9.08 hereof, or (c) for the performance of any of its obligations under Section 9.09. If a successor Owner Trustee is appointed in accordance with the terms of the Owner Trust Agreement, such successor Owner Trustee shall, without any further act, succeed to all the rights, duties, immunities and obligations of the Owner Trustee hereunder and its predecessor Owner Trustee shall be released from all further duties and obligations hereunder (except obligations arising out of acts performed or failed to be performed prior to the appointment of such successor Owner Trustee). In the case of any appointment of a successor to the Owner Trustee pursuant to the Owner Trust Agreement or any merger, conversion, consolidation or transfer of substantially all of the business involving the Owner Trustee pursuant to the Owner Trust Agreement, the successor Owner Trustee shall give prompt written notice thereof to the Loan Trustee and to each Loan Participant.

9.11 Owner Trust Agreement. The Owner Trustee agrees that, so long as any of the Loan Certificates shall be outstanding, a signed copy of each amendment or supplement to the Owner Trust Agreement shall be delivered by the Owner Trustee to the Loan Trustee, the Lessee and to each Loan Participant. This Indenture, the Trust Indenture Estate and the Lessee shall not be affected by any amendment or supplement to the Owner Trust Agreement or by any other action taken under or in respect of the Owner Trust Agreement.

Section 10. Disposition of Loan Certificate Proceeds. On the Delivery Date, upon the making available by the Owner Participant of its commitment pursuant to the Participation Agreement, the Loan Trustee shall disburse in immediately available funds to the Owner Trustee, or as the Owner Trustee may direct, an amount equal to the proceeds of sale of the Original Issue Loan Certificate, unless the Loan Trustee has received written notice from the Loan Participant that the conditions specified in Section 4 of the Participation Agreement have not been met, or that any document or instrument required to be delivered under Section 4 contains any statement that is not true and correct in all material respects as of the date as of which such statement is made. The Owner Trustee and the Owner Participant shall be entitled to treat the making available of funds by the Loan Trustee under this Section 10 on the Delivery Date as conclusive evidence that the conditions precedent specified in Section 4 were complied with to the satisfaction of the Loan Participant and the Loan Trustee.

Section 11. Refinancing of Loan Certificates.

11.01 Supplemental Indenture. If the indebtedness evidenced by the Original Issue Loan Certificates shall be refinanced pursuant to Section 18 of the Participation Agreement, the Owner Trustee shall execute and deliver an indenture supplemental hereto providing for the creation of a new series of Loan Certificates (the "Subsequent Issue Loan Certificates") in order to refinance the Original Issue Loan Certificates. Such indenture supplemental hereto shall create such new series, designate such new series and set forth with respect to such Subsequent Issue Loan Certificates:

(a) the maximum aggregate principal amount of Subsequent Issue Loan Certificates which may be originally issued, which amount shall be equal to (i) the aggregate principal amount of Original Issue Loan Certificates outstanding immediately prior to the prepayment thereof occurring as a result of the issuance of Subsequent Issue Loan Certificates (and excluding amounts so prepaid as a result of such issuance), plus (ii) expenses referred to in clause (b)(i) of Section 16 of the Participation Agreement which are incurred in connection with the refinancing transactions contemplated by Section 18 thereof;

(b) the date or dates of maturity of, and each principal payment with respect to, the Subsequent Issue Loan Certificates;

(c) the place or places where principal, premium, if any, and interest are to be paid and where the Subsequent Issue Loan Certificates are to be registrable, transferable or exchangeable;

(d) the rate of interest and the date from which, and the date or dates on which, interest is payable;

(e) the terms, if any, as to prepayment or redemption of the Subsequent Issue Loan Certificates at the option of the Owner Trustee, and as to the premium, if any, payable on any prepayment or redemption of the Subsequent Issue Loan Certificates, or payable on any prepayment or redemption in whole or in part of such Loan Certificates pursuant to Section 3.02; and

(d) any other particulars necessary to describe and define the Subsequent Issue Loan Certificates within the terms and conditions of this Indenture and of the replacement financing obtained by the Owner Participant and approved by the Lessee pursuant to Section 18 of the Participation Agreement,

provided that all Subsequent Issue Loan Certificates shall be identical in respect of the calendar months and the days of each such month specified for the payment of interest thereon (and each date fixed for the payment or prepayment of principal or other redemption thereof shall coincide with an interest payment date).

No Subsequent Issue Loan Certificates issued under this Indenture and no supplemental indenture or purchase agreement with respect thereto shall have the effect, directly, or through any documents or instruments entered into pursuant thereto, of increasing the liabilities of Lessee under the Lease or any other Unit-Train Financing Agreement to which it is a party, other than increases in the liability of Lessee contemplated by Section 11.02(b), or shall create for the benefit of the holders of any Subsequent Issue Loan Certificates any new Events of Default under this Indenture or the Lease.

11.02 Issuance of Subsequent Issue Loan Certificates.

Upon the execution and delivery by the Owner Trustee of an indenture supplemental hereto creating a new series of Subsequent Issue Loan Certificates in accordance with Section 11.01, and if no Indenture Default or Indenture Event of Default shall have occurred and be continuing or will occur as a result of the issuance of such Subsequent Issue Loan Certificates or the transactions relating thereto, the Owner Trustee shall execute and deliver to the Loan Trustee Subsequent Issue Loan Certificates in the aggregate principal amount specified in Section 11.01(a), and the Loan Trustee shall deliver such Loan Certificates to or upon the written order of the Owner Trustee after (i) compliance by the Owner Trustee with this Section 11.02, (ii) receipt by the Loan Trustee of an amount in cash equal to the aggregate principal amount of such Loan Certificates and (iii) receipt of the

following instruments in form and substance satisfactory to the Loan Trustee:

(a) Application. An application (the "Application"), executed by the Owner Trustee and dated the date of delivery thereof, for the delivery of Subsequent Issue Loan Certificates specifying the principal amount thereof to be delivered and naming the Person or Persons in whose name such Subsequent Issue Loan Certificates shall be registered and to whom such Loan Certificates shall be delivered.

(b) Lease Supplement. A supplement to the Lease, duly authorized, executed and delivered by Lessee and the Owner Trustee, providing for an adjustment in Rent under the Lease by the amount necessary to comply with Section 4.4(b) of the Lease, and providing for adjusted Stipulated Loss Values and Termination Values under the Lease sufficient in each case to ensure compliance with Section 4.4(b) of the Lease, together with (i) if requested by the Lessee pursuant to Section 4.4(c) of the Lease, the written report of the firm of independent public accountants performing the verification of the foregoing adjustments, and (ii) such instruments of conveyance, assignment and transfer, if any, necessary or desirable to ratify and confirm the subjection to the lien of this Indenture, or to subject to such lien or the assignment clause contained herein all the right, title and interest of the Owner Trustee in and to such supplement to the Lease, subject to no Liens other than the lien of this Indenture.

(c) Consent of Owner Participant and Lessee. The consent of each of the Owner Participant and the Lessee to the issue of the Subsequent Issue Loan Certificates, in effect authorizing the submission by the Owner Trustee of such application and approving the execution and delivery of such Loan Certificates.

(d) Closing. Payment in immediately available funds to the Loan Trustee of the aggregate principal amount of the Subsequent Issue Loan Certificates and delivery to the Owner Trustee of all Original Issue Loan Certificates then outstanding.

(e) Rent. The Lessee shall have paid the amount of Rent, if any, payable in event of refinancing pursuant to Section 4.3 of the Lease.

(f) Opinions of Counsel. Such opinions of counsel, satisfactory to each purchaser of a Subsequent Issue Loan Certificate, as to such matters with respect to the

validity of the Indenture, the making of necessary recordations, filings or other actions, the sufficiency or nonrequirement of Governmental Approvals, the due authorization, execution and delivery of the supplement to the Lease or the indenture supplemental to this Indenture, compliance with laws, and compliance with the requirements of this Section 11, as shall be requested by, and satisfactory in form and substance to, each such purchaser.

(g) Additional Documentation. Such additional documents as shall be reasonably requested by the Loan Trustee or any purchaser of a Subsequent Issue Loan Certificate in order to evidence the satisfaction of the conditions set forth in this Section 11.02.

11.03 Release of Funds from Sale of Subsequent Issue Loan Certificates. Upon fulfillment of the conditions precedent specified in Section 11.02 and concurrently with delivery of the Subsequent Issue Loan Certificates by the Loan Trustee to or upon the written order of the Owner Trustee as provided in Section 11.02, the Loan Trustee shall prepay to each holder of an Original Issue Loan Certificate the amount to which such holder is entitled pursuant to Section 2.02.

11.04 Amendment of Definitions. To the extent appropriate, terms defined in this Indenture, including without limitation, "Participation Agreement" and "Lease," shall be amended or supplemented to the reasonable satisfaction of the Owner Participant and a Majority in Interest of Loan Certificate Holders (subject to any more stringent requirements of Section 8.01), so as to include all changes necessitated by the issuance of Subsequent Issue Loan Certificates pursuant to this Section 11.

Section 12. Miscellaneous.

12.01 Termination of Indenture. This Indenture and the trusts created hereby shall terminate and this Indenture shall be of no further force or effect upon the earlier of (a) payment in full of the principal of, premium, if any, and interest and Loan Fee on all Loan Certificates then outstanding and all other amounts then due any holder of any Loan Certificate (directly or through any predecessor holder of such Loan Certificate) and secured by the Trust Indenture Estate, or (b) the sale or other final disposition of all property included in the Trust Indenture Estate and the final distribution by the Loan Trustee of all monies or other property or proceeds constituting part of the Trust Indenture Estate in accordance with the terms of Sections 3 and 10, provided that if at such time referred to in clause (b) the Lessee shall not have fully complied with all of the terms of the Lease, the Participation Agreement, the Purchase Contract, the Purchase Contract Assignment, the Coal

Delivery Contract, and the Coal Delivery Contract Assignment, then this Indenture and the trusts created hereby shall continue in full force and effect in accordance with the terms hereof until such time as the Lessee has fully complied with such terms. Upon any such payment in full of all amounts referred to in clause (a), the Loan Trustee shall pay all monies or other properties or proceeds constituting part of the Trust Indenture Estate to the Owner Trustee and shall give notice to the Owner Participant of such payment, and this Indenture and the trusts created hereby shall terminate and shall be of no further force or effect.

12.02 No Legal Title to Trust Indenture Estate in Holders. No holder of a Loan Certificate shall have legal title to any part of the Trust Indenture Estate. No transfer, by operation of law or otherwise, of any Loan Certificate or other right, title and interest of any holder of a Loan Certificate in and to the Trust Indenture Estate or hereunder shall operate to terminate this Indenture or the trusts hereunder or entitle any successor or transferee of such holder to an accounting or to the transfer to it of legal title to any part of the Trust Indenture Estate.

12.03 Sale of Cars by Loan Trustee Is Binding. Any sale or other conveyance of any Cars by the Loan Trustee made pursuant to the terms of the Lease or this Indenture shall bind the Owner Trustee and the holders of the Loan Certificates and shall be effective to transfer or convey all right, title and interest of the Loan Trustee, the Owner Trustee and such holders in and to such Cars. No purchaser or other grantee shall be required to inquire as to the authorization, necessity, expediency or regularity of such sale or conveyance or as to the application of any sale or other proceeds with respect thereto by the Loan Trustee.

12.04 Indenture and Loan Certificates for Benefit of Owner Trustee, Loan Trustee, Holders and Owner Participant Only. Nothing in this Indenture, whether express or implied, shall be construed to give to any person other than the Owner Trustee, the Loan Trustee, the holders of the Loan Certificates, or to the extent expressly set forth herein, the Owner Participant or the Lessee, any legal or equitable right, remedy or claim under or in respect of this Indenture or any Loan Certificate; but this Indenture shall be held for the sole and exclusive benefit of the parties hereto, the holders of the Loan Certificates and, to such extent, the Owner Participant or the Lessee.

12.05 Notices. Unless otherwise specifically provided herein, all notices, consents, directions, approvals, instructions, requests and other communications required or permitted by the terms hereof shall be in writing in the English language, and any such notice shall become effective five Business Days after

being deposited in the mails, certified or registered, with appropriate postage prepaid for first class mail or, if delivered by hand or in the form of a telex, telegram or cable, when received, and shall be addressed as required in Section 15 of the Participation Agreement.

12.06 Payments Due Other Than on Business Days. In any case where the scheduled date for any payment of interest on or principal of a Loan Certificate shall not be a Business Day, then such payment need not be made on such scheduled date but may be made on the next succeeding Business Day with the same force and effect as if made on such scheduled date and (provided such payment is made on such next succeeding Business Day) no interest shall accrue on the amount of such payment from and after such scheduled date.

12.07 Severability; Conflict with Owner Trust Agreement. Any provision of this Indenture which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. In the event of any inconsistency or conflict between any provision of this Indenture and any provision of the Owner Trust Agreement, such provision in this Indenture shall govern and control.

12.08 Written Changes Only. Subject to Sections 8.01 and 8.02, no term or provision of this Indenture or any Loan Certificate may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party or other person against whom enforcement of the change, waiver, discharge or termination is sought; and any waiver of the terms hereof or of any Loan Certificate shall be effective only in the specific instance and for the specific purpose given.

12.09 Separate Counterparts. This Indenture may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument. It shall not be necessary, when making proof of this Indenture, to produce or account for more than one counterpart.

12.10 Successors and Assigns. All covenants and agreements contained herein shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns and each holder of a Loan Certificate. Any request, notice, direction, consent, waiver or other instrument or action by any holder of a Loan Certificate shall bind the successors and assigns of such holder.

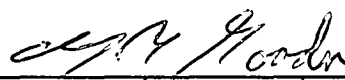
12.11 Headings; References; Etc. The headings of the various Sections herein are for convenience of reference only and shall not define or limit any of the terms or provisions hereof. References herein to Sections or subsections without reference to the document in which they are contained are references to this Indenture. The trusts created hereby may for convenience of reference be referred to by any holder of a Loan Certificate as the "Brushy Creek Mine Unit-Train Trust."

12.12 Governing Law. This Indenture shall in all respects be governed by, and construed in accordance with, the laws of the State of Illinois, including all matters of construction, validity and performance. This Indenture is being delivered in the State of Illinois.

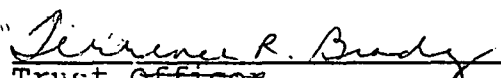
12.13 Rights under Trust Agreement. The Loan Trustee and (by accepting such Loan Certificate) each holder of a Loan Certificate acknowledge that their only rights (with respect to, but only with respect to, the transactions contemplated by the Unit-Train Lease Agreements) under and with respect to the Trust Agreement, any amounts payable under the Coal Purchase Contracts, or any property included in the Trust Estate (as defined in the Trust Agreement) are the rights specified in Section 17 of the Participation Agreement. Nothing herein contained shall be construed as affecting the rights of any party to any or all of the foregoing to the extent such party has rights in any capacity other than with respect to the Unit-Train Financing Agreements.

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed by their respective officers thereunto duly authorized, as of the day and year first above written.

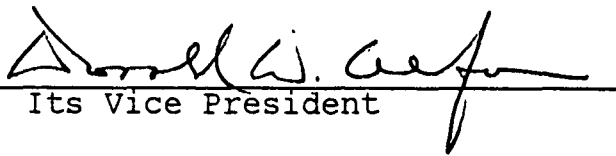
FIRST NATIONAL BANK AND TRUST COMPANY OF EVANSTON, as Owner Trustee

By 
Its Vice President and
Trust Officer

Attest:


Trust Officer
ADMINISTRATOR

CONTINENTAL ILLINOIS NATIONAL BANK
AND TRUST COMPANY OF CHICAGO, as
Loan Trustee

By 
Its Vice President

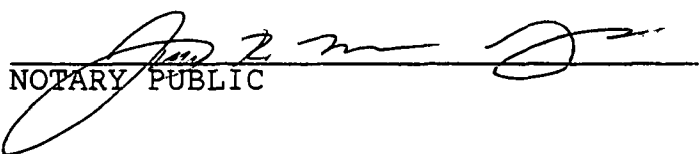
Attest:


Trust Officer

STATE OF ILLINOIS)
 : ss
COUNTY OF COOK)

I, John R. Mann, Jr., a Notary Public, duly qualified, commissioned, sworn and acting in and for the County and State aforesaid, hereby certify that on the 1st day of July, 1980, C. N. Goodnow, personally known to me to be a Vice President and Trust Officer of FIRST NATIONAL BANK AND TRUST COMPANY OF EVANSTON, a national banking association, and Terrence R. Brady, personally known to me to be a Trust Officer of said association, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Vice President and Trust Officer and Trust Officer they signed and delivered the said instrument as Vice President and Trust Officer and Trust Officer of said association, and caused the corporate seal of said association to be affixed thereto, pursuant to authority given by the Board of Directors of said association, as their free and voluntary act and as the free and voluntary act and deed of said association, for the uses and purposes therein set forth.

GIVEN under my hand and official seal the day and year in this certificate first written.


NOTARY PUBLIC

My commission expires: 5/5/82

STATE OF ILLINOIS)
 : ss
COUNTY OF COOK)

I, Susan A. Moritz, a Notary Public, duly qualified, commissioned, sworn and acting in and for the County and State aforesaid, hereby certify that on the 10th day of July, 1980, DONALD W. ALVIN, personally known to me to be a Vice President of CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO, a national banking association, and CHARLES W. VANDE VEN, personally known to me to be the Trust Officer of said association, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Vice President and Trust Officer they signed and delivered the said instrument as Vice President and Trust Officer of said association, and caused the corporate seal of said association to be affixed thereto, pursuant to authority given by the Board of Directors of said association, as their free and voluntary act and as the free and voluntary act and deed of said association, for the uses and purposes therein set forth.

GIVEN under my hand and official seal the day and year in this certificate first written.

NOTARY PUBLIC

Susan A. Moritz

My commission expires: January 3, 1983

EXHIBIT A
TO
Trust Indenture
and Security
Agreement

FORM OF ORIGINAL ISSUE LOAN CERTIFICATE

FIRST NATIONAL BANK AND TRUST COMPANY
OF EVANSTON

Trustee of Brushy Creek Mine Unit-Train Financing
Under the Owner Trust Agreement Dated As Of
July , 1980

LOAN CERTIFICATE
Due July 1, 1996

No.

Chicago, Illinois
Original Issue Date:
July , 1980

\$.....

FIRST NATIONAL BANK AND TRUST COMPANY OF EVANSTON, as trustee (herein in such capacity called the "Owner Trustee") under that certain Owner Trust Agreement, dated as of July __, 1980 (the "Owner Trust Agreement"), between Seafirst Leasing Corporation, a Washington corporation (the "Owner Participant"), and the Owner Trustee, hereby promises to pay to _____, or order, the principal sum of \$ _____, together with interest on the amount of said principal sum remaining unpaid from time to time from the date of this Loan Certificate until payment hereof is made or duly provided for at a per annum rate (computed on the basis of a 360-day year of twelve 30-day months) equal to one percent plus the Prime Rate (changing on the fifth day of each month as the Prime Rate changes) until July 1, 1985, and from and after that date equal to three percent plus the Prime Rate (changing on the fifth day of each month as the Prime Rate changes), such principal and interest to be due and payable in 30 consecutive semi-annual payments commencing on January 1, 1982 and on each July 1 and January 1 thereafter, to and including July 1, 1996, each such semi-annual payment to be in an amount equal to accrued but unpaid interest and Loan Fee plus an amount of principal determined in the manner described in Section 2.02 of the Indenture (as hereinafter defined), provided that the last such semi-annual payment shall be in an amount sufficient to discharge all accrued interest on, and the entire unpaid principal amount of, and other amounts payable with respect to, this Loan Certificate.

In addition, the Owner Trustee hereby promises to pay to the above-named payee, or order, Loan Fee payable annually commencing July 1, 1985 and continuing on each July 1 thereafter to and including July 1, 1994, the amount of Loan Fee payable on each such July 1 to the holder hereof being that proportion of the aggregate Loan Fee payable on such July 1 which the unpaid principal amount of this Loan Certificate bears to the aggregate principal amount of all Loan Certificates then outstanding.

Interest on any overdue principal and (to the extent permitted by applicable law) any overdue interest and Loan Fee shall be paid from the due date thereof at a per annum rate equal to one percent plus the rate otherwise applicable (or any lesser rate which shall be the maximum rate permitted by applicable law) per annum (computed on the basis of a 360-day year of twelve 30-day months).

All payments to be made by the Loan Trustee on behalf of the Owner Trustee hereunder and under the Trust Indenture and Security Agreement dated as of July , 1980 (herein called the "Indenture", the defined terms therein not otherwise defined herein being used herein with the same meaning) between the Owner Trustee and Continental Illinois National Bank and Trust Company of Chicago as trustee thereunder (the "Loan Trustee"), except for any sums payable by the Loan Trustee in its individual capacity pursuant to the Indenture, shall be payable by the Loan Trustee only from the Trust Indenture Estate and only to the extent that the Loan Trustee shall have sufficient income or proceeds from the Trust Indenture Estate to make such payments in accordance with the terms of Section 3 of the Indenture, and each holder hereof, by its acceptance of this Loan Certificate, agrees that (i) except as expressly provided in the Indenture, the Participation Agreement or the Owner Trust Agreement, insofar as the Loan Trustee is concerned, such holder will look solely to the income and proceeds from the Trust Indenture Estate to the extent available for distribution to the holder hereof as above provided, and insofar as the Owner Trustee is concerned, such holder will look solely to the Owner Trust Estate, and (ii) neither the Owner Participant, the Owner Trustee nor the Loan Trustee is personally liable to the holder hereof for any amounts of principal of or premium, if any, or interest on this Loan Certificate, or except as expressly provided in the Indenture, the Participation Agreement or the Owner Trust Agreement, for any amounts payable under the Indenture or the Participation Agreement.

Both principal and interest and Loan Fee shall be payable at the principal corporate trust office of the Loan Trustee in Chicago, Illinois, or at the principal corporate trust office of any successor Loan Trustee in immediately available funds or as otherwise provided in Section 2.05 of the Indenture.

Each holder hereof, by its acceptance of this Loan Certificate, agrees that each semi-annual payment received by the holder hereunder shall be applied, first, to the payment of accrued interest and Loan Fee on this Loan Certificate to the date of such payment, and second, to the payment of the principal amount of this Loan Certificate remaining unpaid, in the manner set forth in Section 2.05 of the Indenture.

In the event of a partial prepayment of this Loan Certificate pursuant to Section 3.02 of the Indenture, each payment of principal and interest thereafter due and payable on this Loan Certificate shall be reduced in the same proportion as the then outstanding principal amount of this Loan Certificate shall have been reduced by such prepayment pursuant to Section 3.02.

In any case where the scheduled date for any payment of interest on or principal of this Loan Certificate shall not be a Business Day, then such payment shall be made on the next succeeding Business Day with the same force and effect as if made on such scheduled date and the holder hereof shall be entitled to no additional interest or other compensation on account of the making of any such payment on such next succeeding Business Day.

This Loan Certificate is one of the Loan Certificates referred to in the Indenture which have been issued by the Owner Trustee pursuant to the terms of the Indenture. The Trust Indenture Estate is held by the Loan Trustee as security for the Loan Certificates issued thereunder. The rights of the Owner Participant, as well as the beneficial interest of the Owner Participant in and to the properties of the Owner Trustee pledged or mortgaged as part of the Trust Indenture Estate, are subject and subordinate to the rights of the holders of the Loan Certificates to the extent provided in the Indenture. Reference is hereby made to the Indenture for a statement of the rights of the holder of, and the nature and extent of the security for, this Loan Certificate and of the rights of the holder of, and the nature and extent of the security for, this Loan Certificate and of the rights of the holders of, and the nature and extent of the security for, other Loan Certificates and of certain rights of the Owner Participant, as well as for a statement of the terms and conditions of the trusts created by the Indenture, to all of which terms and conditions in the Indenture each holder hereof agrees by its acceptance of this Loan Certificate.

This Loan Certificate is not subject to prepayment except as provided in Sections 2.02, 3.02 and 3.03 of the Indenture. This Loan Certificate is subject to purchase as provided in Section 2.10 of the Indenture.

Under certain circumstances, the holder hereof may be required to participate in the indemnification of the Loan Trustee

pursuant to Section 5.04 of the Indenture and Section 12.2 of the Participation Agreement.

This Loan Certificate is an order Loan Certificate and is transferable by endorsement and delivery. Until the Owner Trustee and the Loan Trustee have received notice of transfer of this Loan Certificate from the holder of record hereof, or until this Loan Certificate, duly endorsed, shall have been presented to the Loan Trustee at the Loan Trustee Office by the transferee of this Loan Certificate, the Owner Trustee, the Lessee and the Loan Trustee may treat the person in whose name this Loan Certificate is issued (or the last transferee of this Loan Certificate notice of whom has been given to the Owner Trustee and the Loan Trustee in accordance with this sentence, as the case may be), whether or not this Loan Certificate is overdue, as the owner hereof for the purpose of receiving payments of principal and interest and Loan Fee hereon and for all other purposes whatsoever.

This Loan Certificate shall be governed by the laws of Illinois.

IN WITNESS WHEREOF, the Owner Trustee has caused this Loan Certificate to be executed in its corporate name by one of its Trust Officers as of the date hereof.

FIRST NATIONAL BANK AND TRUST
COMPANY OF EVANSTON, as
Owner Trustee

By _____
Vice President and
Trust Officer